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the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1185th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 3 March 1997, at 10 a.m.

Chairman: Mr. BANTON

later: Mr. FERRERO COSTA

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.97-15745 (E)

The meeting was called to order at 10.05 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the fiftieth session of the Committee on the Elimination of Racial Discrimination.

TRIBUTE TO THE MEMORY OF KARL JOSEF PARTSCH, NICOLÁS DE PIÉROLA Y BALTA AND ANDRÉ DECHEZELLES

2. The members of the Committee paid tribute to the memory of Karl Josef Partsch, Nicolás de Piérola y Balta and André Dechezelles, former members of the Committee. They asked the Chairman to convey their condolences to the families of the deceased.

3. At the invitation of the Chairman, the members of the Committee observed a minute of silence in memory of Karl Josef Partsch, Nicolás de Piérola y Balta and André Dechezelles.

STATEMENT BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL

4. Ms. KLEIN (Representative of the Secretary-General) informed the Committee of the new developments that had taken place since its previous session. The process of restructuring the Centre for Human Rights was under way. A number of work packages had been created during the transitional period, including one to assist in the monitoring activities of the five Geneva-based bodies set up under the international human rights instruments and another to look at ways of improving support for those bodies and make pertinent recommendations.

5. Changes had also been made in the area of electronic communications. Since 10 December 1996 the Centre for Human Rights had had a website where it was possible to consult the annual reports of the Committee, the agenda for its sessions and the periodic reports it was to consider. The concluding observations to be adopted at the current session would be added in due course. The issue of the use of new electronic tools, particularly the Internet, for racist and xenophobic propaganda had been among the topics discussed at the seminar held in September 1996 on the implementation of the International Convention on the Elimination of all Forms of Racial Discrimination. The role of the Internet in relation to the provisions of the Convention would also be assessed at a seminar on the Third Decade to be organized shortly by the Centre in cooperation with UNICEF, ITU, NGOs and Internet service providers, with the assistance of the Committee. She was convinced that the Committee would wish to pay attention, as it went about its work, to issues relating to the abuse of the Internet to promote racial hatred.

6. A plan of action had been drawn up to strengthen the implementation of the Convention on the Rights of the Child and should assist the Committee on the Rights of the Child to cope with the enormous workload created by the rapid accession to the Convention of 190 States. Steps had also been taken to strengthen the implementation of mechanisms for sevéral other human rights instruments through the drafting of optional protocols.

7. Ms. Klein also referred to the increase in violence in Rwanda, which in February had caused the death of five United Nations human rights monitors. The High Commissioner had personally visited Rwanda to assess the situation there. The Centre for Human Rights had recently opened field offices in Zaire and Abkhazia and was also preparing to open an office in Colombia. Finally, she reminded the Committee that the High Commissioner for Human Rights would shortly be leaving his post to take up the duties of Minister of Foreign Affairs of his country, Ecuador.

8. Mr. SHERIFIS expressed regret at the departure of the High Commissioner for Human Rights, whose work he had valued, and asked the Representative of the Secretary-General to convey that regret to him. He asked who would replace Mr. Ayala-Lasso and who would be in charge in the interim, and also inquired whether Mr. Fall was still in his post at the Centre for Human Rights.

9. The CHAIRMAN asked the Representative of the Secretary-General to convey to Mr. Ayala-Lasso the regret of all the members of the Committee at his departure and their congratulations on the work he had accomplished.

10. Ms. KLEIN (Representative of the Secretary-General) thanked the Committee for that gesture. She was unable to reply to the question of Mr. Sherifis concerning who would succeed Mr. Ayala-Lasso. Mr. Fall had been assigned to the Department of Political Affairs in New York and his former duties were temporarily being carried out by his deputy, Mr. Zacklin.

11. Mr. de GOUTTES also paid tribute to the work of Mr. Ayala-Lasso and expressed the hope that the Committee would continue to be able to rely on the assistance of the Centre for Human Rights in order to carry out its preliminary information activities on countries subject to an emergency procedure. Right from the outset of its work, the Committee would need to listen to the views of representatives of the Centre in order to assess the situation in such countries.

12. Mr. VALENCIA RODRIGUEZ noted that the procedure for appointing the High Commissioner for Human Rights was set out in General Assembly resolution 48/141.

ADOPTION OF THE AGENDA (provisional agenda item 1)

13. The CHAIRMAN said that he would take it, if there was no objection, that the Committee wished to adopt the provisional agenda as reproduced in document CERD/C/321.

14. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3)

Programme of work

15. Mr. BRUNI (Acting Secretary of the Committee) informed the Committee that Algeria had requested by note verbale that its report be considered at the fifty-first session of the Committee on account of the overlapping of the

sessions of CERD and the Commission on Human Rights. Neither the Foreign Ministry of Swaziland nor the Permanent Mission of that country in New York had replied to the Committee, which had requested them both in writing and orally to indicate whether a representative of the Government would be present during the consideration of the report of Swaziland scheduled for 18 March 1997. That report should have been considered at the forty-ninth session of the Committee, when Swaziland had not sent a representative. The Committee would therefore have to decide whether it wished to consider the report in the absence of a delegation.

16. Argentina, Cambodia, the former Yugoslav Republic of Macedonia and the Philippines had asked for the consideration of their reports under the review procedure to be postponed until the next session of the Committee.

17. In addition, Cuba, Ethiopia, Lebanon, Libya, the Netherlands and the Niger had indicated in notes verbales that their reports would be submitted shortly. They too had asked for consideration of their reports to be deferred until the fifty-first session of the Committee.

18. About half the countries to be considered under the review procedure had submitted their reports or were about to do so.

19. He added that Cuba, Germany, Mexico and Switzerland had approved the draft amendments to article 8 of the Convention.

20. The CHAIRMAN said the fact that about half the countries concerned had submitted reports or were about to do so was encouraging and showed that the measures adopted by the Committee for the review procedure were working satisfactorily.

21. Mr. RECHETOV noted that many countries were endeavouring to submit their reports despite the difficulties they were experiencing, which showed the importance they attached to the work of the Committee. In particular that applied to the former Yugoslav Republic of Macedonia.

22. Two decisions had been taken by the Committee at previous sessions, one on the procedure for dealing with overdue periodic reports and the other at its forty-ninth session on overdue initial reports. However, it seemed that the latter decision, unlike the former, was not being implemented. For example, Estonia, which had acceded to the Convention in 1991, had still not submitted an initial report. He believed that the Committee should consider the situation of Estonia at the present session. That country was not suffering either public disorder or civil war and could be expected to submit a report. Furthemore, over 300,000 people in Estonia belonged to minorities who did not have Estonian nationality, even though they had been born in the country, and they were not entitled to vote in elections or hold public office. Estonia had submitted a report to the Committee on Human Rights two years previously and it was alleged that it had subsequently harassed the representatives of non-governmental organizations who had attended the presentation of that report. A representative of Estonia was sure to be present at the forthcoming session of the Commission on Human Rights. The Committee could request him to be present during the consideration of his country's situation and, if Estonia did not submit a report on the

implementation of the Convention, the Committee could base its deliberations on the report Estonia was to submit to the Commission on Human Rights. It was essential to show consistency towards all countries in the matter of consideration of reports.

23. Finally, he expressed the hope that the Committee would request the People's Republic of China to submit reports on the human rights situation in Hong Kong after 1 July 1997.

24. The CHAIRMAN pointed out that the Committee's decision on overdue periodic reports had been taken seven years previously and had been endorsed by the General Assembly. Before implementing its decision on overdue initial reports adopted at its forty-ninth session, the Committee had wished first of all to inform the General Assembly in order to make sure that that body did not oppose the decision. It was now open to the Committee to decide which reports it wished to consider at its next session under the new procedure.

25. Mr. ABOUL-NASR expressed the view that it was difficult to deal with initial reports and the other reports in the same way, inasmuch as the initial reports formed the basis for the discussions of the Committee and for its dialogue with States parties and were used for the monitoring of situations. He wondered how it would be possible to consider the case of a country without an initial report.

26. The CHAIRMAN pointed out that the question raised by Mr. Rechetov was nevertheless valid because the Committee had taken a decision on overdue initial reports at its forty-ninth session.

27. Mr. VALENCIA RODRIGUEZ said that, even if the decision taken by the Committee at its forty-ninth session did not necessarily have to be officially endorsed by the General Assembly, the Committee had rightly waited before applying it until the General Assembly had adopted its resolution on the Committee's report, which mentioned the various procedures approved by the Committee, without apparently raising any objections.

28. Mr. RECHETOV pointed out to Mr. Aboul-Nasr that the Committee had already had occasion to consider the situation of a country without having before it an initial report, as in the case of the former Yugoslav Republic of Macedonia, for example. He did not wish to complicate the work of the Committee, but stressed that it should implement the decisions it took, for otherwise it would encourage the negative attitude of those States parties that did not wish to submit a report.

29. Mr. ABOUL-NASR noted that under the provisions of article 9 of the Convention the role of the Committee was to consider reports, not situations. Macedonia was a special case in that it represented an emergency situation.

30. The CHAIRMAN proposed to the members of the Committee that they should comply with the requests of Algeria, Argentina, Cambodia, the Philippines and the former Yugoslav Republic of Macedonia, which wished the consideration of their respective reports to be postponed until the fifty-first session. Since

Algeria had mentioned the fact that the session of the Commission on Human Rights was being held simultaneously with the session of the Committee, it should be understood that the decision concerning that country would not create a precedent.

31. It was so decided.

32. The CHAIRMAN also proposed that consideration of the reports of Cuba, Ethiopia, Lebanon, Libya, the Netherlands and the Niger should be postponed until the fifty-first session of the Committee, on the understanding that the reports concerned should be submitted in good time.

33. It was so decided.

34. The CHAIRMAN announced that the consideration of the periodic report of Swaziland, which had been postponed several times, should take place on the scheduled date, even if necessary in the absence of representatives of the State party. In agreement with Mrs. Sadiq Ali, rapporteur for that country, he said that a notification would nevertheless be sent to Swaziland. He noted the comment by Mr. Chigovera, supported by Mr. Sherifis, that it would be advisable to get in touch with Swaziland before taking a final decision on the consideration of the report of that State party. The report of Cameroon, which had very belatedly submitted a request for postponement to the Committee, would be considered after the report of Belgium.

35. He did not consider it appropriate to postpone consideration of the report of the former Yugoslav Republic of Macedonia, particularly in view of the comments by Mr. Rechetov and Mr. Garvalov.

Question of the participation of members of the Committee in the consideration of certain reports

36. Mr. GARVALOV recalled that at its previous session the Committee had discussed at length the participation of members of the Committee in the consideration of the reports of countries of which they were nationals. It had been decided to continue consideration of that matter at the current session in order to reach a decision. That decision was an important one, for the situation would arise in a number of cases during the fiftieth session.

37. Mr. SHERIFIS noted that it had been decided at the previous session of the Committee to have the matter considered by the persons chairing the human rights treaty bodies in accordance with General Assembly resolution 37/44 (A/51/482, para. 1).

38. The CHAIRMAN said that in his report on the activities carried out since the fiftieth session he had stated that he had submitted to the seventh meeting of persons chairing the treaty bodies the question of the participation of experts serving on the committees in the consideration of periodic reports from States of which they were nationals. The chairpersons had taken the view that experts should not take part in the consideration of the reports of their own countries (A/51/482).

39. Mr. DIACONU pointed out that the principles adopted by the persons chairing the treaty bodies were merely recommendations for the purpose of maintaining the highest standards of impartiality, both in substance and in appearance. There was therefore no absolute rule on the matter and it was for the members of the Committee to decide in the light of their own consciences whether or not it was appropriate for them to participate in any way in the consideration of the report of their own country. Every member of the Committee should have free scope to participate, provided that he did so in an impartial, honest and objective manner. A member could sometimes give the Committee an overall view and more comprehensive information than did the States parties concerned. A ban on participating in the discussions would probably be detrimental to the interests of the Committee.

40. Mr. ABOUL-NASR said he fully agreed with Mr. Diaconu's viewpoint. He was strongly opposed to the recommendation made by the chairpersons, which was not based on any provision in the Convention or the rules of procedure. It was his intention, when the time came, to comment as appropriate on some aspects of the report of his own country, Egypt, concerning the implementation of article 4 of the Convention. Likewise, the other members of the Committee would be able to act as they thought fit in a similar situation.

41. Mr. van BOVEN said that the Committee should not discuss the issue at the present stage. Instead he wanted the Chairman to bring his report to the attention of the other members of the Committee. The bureau should draw up a timetable for the consideration of important questions dealt with by that report, in particular the support services provided by the Secretariat and relations with the other treaty bodies.

42. Mr. RECHETOV said he disagreed with Mr. van Boven. The Committee should continue to discuss the issue of the participation of experts in the consideration of the reports of their own countries, which was a matter of fundamental importance.

43. Mr. FERRERO COSTA expressed the view that the discussion on the participation of members of the Committee in the consideration of the report of their own country was extremely important and relevant for the Committee, since many experts would be in a position to participate in the consideration of the report of their own country. The Committee therefore needed to take a decision. There must be total respect for the principle of objectivity and impartiality and also for the principle of equality between the States having experts on a committee and the other States. The Committee should therefore reach a majority decision, if necessary by taking a vote.

44. The CHAIRMAN noted that the recommendation made at the meeting of chairpersons was not unanimously accepted by the Committee. The question was whether the freedom of each expert should be restricted, in accordance with the recommendation made by the chairpersons, or whether each expert should be given full latitude to make his own decision.

45. Mr. WOLFRUM voiced his strong opposition to the recommendation made by the chairpersons, which was too general and indeed not in keeping with the Committee's practice. Every expert was entitled to take part in the discussions. In some cases the participation of the expert whose country

report was under consideration was necessary for information purposes. Unlike Mr. Diaconu, however, he believed it was unlikely that an expert would be better informed than the State party of which he was a national, and it was the State party and not the expert who was obliged to provide the Committee with the information it needed. It was necessary to ensure that the countries represented by experts and the other countries received equal treatment in the consideration of reports. Each case should be treated on its merits and it was therefore impossible to lay down a general rule.

46. Mr. CHIGOVERA said that there was an urgent need to find a solution once and for all to the issue under consideration, as it recurred regularly. He quoted paragraph 1 of article 8 of the Convention on the Elimination of Racial Discrimination and stressed the importance of the expression "of ... acknowledged impartiality". It should not be forgotten that the Committee was a quasi-judicial body inasmuch as it evaluated the extent to which the States parties complied with the provisions of the Convention. It was important that justice was seen to be done, which meant that no one could be judge in his own case: no expert could be impartial during the consideration of the report submitted by his own country. The integrity of the Committee and of its members was at stake. If his impartiality was not to be questioned, the expert should not participate in the consideration of the report submitted by his country. Nevertheless, he could play a role as consultant to the other members of the Committee. If he took part in the discussions, the principle of acknowledged impartiality laid down in article 8 of the Convention would be violated.

47. Mr. RECHETOV stated that he had just changed his views on the matter and that he would not take part in the consideration of the report of the Russian Federation. Unfortunately he would not be able to express his views on the irresponsible acts that had been committed in certain regions, particularly in the Caucasus. It was a great pity that the fact of being familiar with the situation of a country, and thus being able to criticize it, should be regarded as partiality. If that argument were taken to its conclusion, the fact of being married to someone from a given country, of having worked in a given country or of being of foreign extraction could constitute grounds for a charge of partiality.

48. Mr. de GOUTTES said he was in favour of the position adopted at the seventh meeting of persons chairing the treaty bodies. It was most important that experts were seen to be impartial. The recommendation made by the chairpersons would protect experts against any pressures from their governments, which would no longer be tempted to intervene, and also against the temptation to take too lenient or to zealous a stand. It was necessary to bear in mind the situations that might arise in the future in exceptional cases. Moreover, as Mr. Ferrero Costa had pointed out, there would be inequality and even lack of equity if the countries which had an expert on the Committee were in a more favourable situation than those that did not. It was true that in some international courts, for example regional courts, the judges could participate in the deliberations on matters affecting their own country, but that was because all the States parties had judges at the court. The rule should be for the expert to refrain from participating during the consideration of the report of his country, although the Committee should be able to consult him, particularly on technical matters. If it were not

possible to reach a consensus on the issue, it would have to be accepted that the expert concerned could make a statement setting out his position on the consideration of the report submitted by his country.

49. Mr. VALENCIA RODRIGUEZ noted that the practice of the Committee had been to recommend to its members not to participate in the consideration of the report submitted by their country in order to preserve their independence, impartiality and objectivity. The persons chairing the treaty bodies had simply wished to convert that practice into a recommendation. It was only the provisions of the Convention and the rules of procedure of the Committee that were of a binding nature, and it was not possible to refuse to allow a member of the Committee to make a statement. It would be for the expert concerned to decide whether or not he wished to intervene in the discussion. It would therefore be preferable not to turn the recommendation he had mentioned into a rule.

50. Mr. SHERIFIS expressed the view that the advocates of converting the recommendation into a rule and their opponents both had some valid arguments. An expert could if he so wished invoke the recommendation to justify his position to his Government, but it was not possible to prevent him by majority vote, if indeed there were a majority, from expressing his views on the report of his country or even criticizing it. Since some members of the Committee, whether or not they were a minority, wished to preserve their right to speak during the consideration of the report of their country, it would be preferable to close the discussion on the matter.

51. Mr. GARVALOV pointed out that there was nothing in the Convention or in the rules of procedure of the Committee to prevent an expert from taking part in the discussions or in the drafting of the Committee's observations. He would support the recommendation made by the persons chairing the treaty bodies if it were stipulated that the decision on whether or not to take part in the discussions was a matter for the expert concerned. While he personally had on occasion decided not to participate in the discussion of a particular report, it would be a different matter when the report of Bulgaria, his own country, came to be examined. The expert from the country whose report was being considered could be subjected to special pressures, not only for all the reasons described by the other members of the Committee, but also for political reasons.

52. Mr. YUTZIS said that when the persons chairing the treaty bodies had adopted the recommendation under consideration they had done so in order to guarantee impartiality. Members of the Committee should refrain from taking part in the consideration of the reports submitted by their own countries, for that was the best way to preserve their impartiality. He drew attention to the concept of being seen to being impartial referred to by Mr. de Gouttes. That was a fundamental issue: being seen to be impartial meant being impartial and showing it. It would therefore be appropriate to take into account the recommendation made by the persons chairing the treaty bodies.

53. Mr. van BOVEN said he shared the view that the experts should not participate in the consideration of the reports of the countries of which they were nationals (A/51/482, para. 29), either in public session or in private session. That practice was followed in most of the other treaty bodies, but

he noted that the time had not yet come to make it into a rule. With regard to the argument that the expert from the country whose report was being considered could provide the Committee with information, he pointed out that it was for the States to provide the Committee with the information it needed. Nevertheless, a distinction should be drawn between the consideration of the reports submitted by States of which members of the Committee were nationals and the consideration of communications received from those same States. In the latter case the Committee was called upon to play a judicial role and its deliberations were private. He personally had already taken an active part in the consideration of a communication received from the Netherlands, but he would not participate in the consideration of the report that his country was to submit to the summer session.

54. Mr. Ferrero Costa took the Chair.

55. Mr. SHERIFIS asked Mr. van Boven if he did not think that rules 89 and 90 of the rules of procedure of the Committee were sufficient.

56. Mr. ABOUL-NASR said he was convinced that an overwhelming majority of the members did not wish to amend the rules of procedure of the Committee and that members of the Committee were entitled to make a statement whenever they wished, even during the consideration of the report of the State of which they were nationals.

57. Mr. Banton resumed the Chair.

58. The CHAIRMAN said it was his understanding that the members of the Committee wished to take note of the recommendation made by the persons chairing the treaty bodies but did not wish to lay down any rule at the present stage.

59. Mr. CHIGOVERA expressed his disagreement with the Chairman. He wanted a decision to be taken, if necessary by means of a vote, before closing the debate on the subject.

60. The CHAIRMAN replied that it was not possible to take a decision immediately and that consideration of the matter would continue at the morning meeting on Wednesday 5 March. He invited those who so wished to prepare a draft resolution and distribute it to the other members of the Committee, but pointed out that some of those who were in favour of the recommendation in question would not vote for a resolution that would oblige their colleagues to act against the dictates of their conscience.

The meeting rose at 1.05 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1186th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 3 March 1997, at 3 p.m.

Chairman: Mrs. SADIQ ALI

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Fourteenth periodic report of the United Kingdom of Great Britain and Northern Ireland

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GE.97-15758 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5)

Fourteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/299/Add.9)

1. At the invitation of the Chairman, Mr. Gillespie, Mr. Steel, Mr. Neale, Mr. S. Wong, Mr. P. Wong, Mr. Fan, Mr. Dean, Ms. Ip, Ms. Foulds, Mr. Wells and Mr. Caughey (United Kingdom) took places at the Committee table.

2. Mr. GILLESPIE (United Kingdom) said that since the fourteenth report had been submitted to the Committee, there had been a number of further developments, to which he would like to refer.

3. Concerning article 2 of the Convention, at the last hearing his delegation had informed the Committee of the Government's intention to introduce legislation on race relations in Northern Ireland. The Race Relations (Northern Ireland) Order 1997 had since been approved by both Houses of Parliament and was expected to be brought into effect within the next few months. Modelled on the provisions of the Race Relations Act 1976, which applied in Great Britain, the Order established a Commission for Racial Equality in Northern Ireland which would help enforce legislation and promote equality of opportunity and good race relations. The legislation differed from that of Great Britain in that it made special provision for the problems experienced by the Irish Traveller communities.

4. With regard to article 5 (a), the fourteenth report provided further information on the training of members of the judiciary by the Judicial Studies Board. Plans were being made to extend that training to magistrates, and a number of seminars would also be held in 1997 on race issues for immigration adjudicators.

5. Concerning article 5 (b), two individuals accused in connection with the bombing of the Israeli Embassy and Balfour House in July 1994 had been found guilty, on 11 December 1996, of conspiracy to cause explosions with intent to endanger life and had been sentenced to 20 years' imprisonment.

6. On 6 November, the Government had issued a public consultation document on changes to the Code of Practice regulating police powers and procedures for stopping and searching individuals. The consultation period had ended on 18 December 1996, and the Home Secretary was considering amendments to that Code. Ethnic monitoring of stop-and-search powers had been introduced into police forces in April 1993, and figures for 1995/1996 would be available shortly. As from 1 April 1996, ethnic monitoring had been extended to arrests, cautions, homicides and deaths in custody. Figures for 1996/1997 should be available in the autumn.

7. The third Racial Attacks Group (RAG) report, published on 15 October 1996, had built upon the recommendations from the 1994 Home Affairs Select Committee and the two previous RAG reports. It recognized in particular that while the police were central to that work, all other social

and criminal justice agencies also had a role to play. Each should ensure that the problem was regarded as a priority and dealt with swiftly and effectively whenever and wherever it occurred. While the RAG might need to be reconvened in the future, the momentum generated by the report would be maintained by the creation of a Racial Incidents Standing Committee to consider a wider range of racial issues.

8. As to article 5 (c), since 1992 the number of political appointments held by members of ethnic minorities in the United Kingdom had risen from 2 per cent in 1992 to 3.3 per cent on 1 September 1996. Although the size of the civil service was declining, ethnic-minority representation was on the rise, growing from 4.2 per cent in 1989 to 5.5 per cent in 1996. That compared with 4.9 per cent in the economically active population.

9. In connection with article 5 (d), he noted that the Asylum and Immigration Act 1996, which had received royal assent on 24 July 1996, was intended to streamline asylum procedures so that unfounded claims could be dealt with quickly. Section 8 of the Act, which had come into force on 27 January, made it an offence for an employer to hire someone subject to immigration control who did not have current valid permission to remain in the United Kingdom.

10. Concerning article 5 (e), he said that the results of round three of the Single Regeneration Budget Challenge Fund had been announced on 16 December 1996. More than half of the schemes approved were explicitly aimed at supporting ethnic minority communities. City Challenge continued to make a significant contribution in some of England's worst inner-city areas, many of which had a high ethnic-minority population.

11. With regard to housing, the fourteenth report had noted the Government's concern about the extent of the harassment of members of ethnic minorities on housing estates. A package of measures had been introduced in the Housing Act 1996 to help local authorities deal with anti-social behaviour. Those provisions had come into force on 12 February 1997.

12. The Government believed that all pupils should be given the same opportunities to benefit from what schools could offer them by meeting their particular educational needs. Responding to a report recently published by the Office for Standards in Education, the Government had announced a Ten-Point Action Plan involving a range of measures to raise the achievement of ethnic-minority pupils. A task group, chaired by the Minister for Education, had been set up to monitor progress.

13. The United Kingdom fully supported the European Union initiative, launched in the United Kingdom by the Prime Minister on 19 February, designating 1997 as European Year against Racism. As his Government saw it, the Year had two main aims: to raise awareness of the problem of racism and share ideas and experience on tackling it, and to draw attention to the benefits which everyone could derive from living in a diverse, multicultural society.

14. Mr. STEEL (United Kingdom) said that he would address section III of the fourteenth report dealing with the United Kingdom's dependent territories, apart from Hong Kong. He wished only to point out that, following concern expressed in a number of quarters about the so-called ethnic minorities in Hong Kong, his Government intended to introduce legislation to give members of ethnic minorities the right to be registered as British citizens and therefore the right of abode in the United Kingdom. The bill on that subject had passed the House of Commons on 28 February and would shortly go back to the House of Lords; it was expected to become law in the very near future.

15. He would attempt to bring the Committee up to date on a number of significant recent developments in some of the other dependent territories. Concerning Anguilla, paragraph 184 of the fourteenth report stated that in the light of the Committee's expressed views, the Government of Anguilla had been asked by the United Kingdom Government to consider introducing legislation against racial discrimination along the lines of the United Kingdom's own Race Relations Acts. He wished to inform the Committee that since the report had been finalized, the Executive Council of Anguilla had taken a formal decision to include such a bill in Anguilla's legislative programme.

16. Turning to Bermuda, paragraph 201 reported that a draft Code of Practice for Race Relations in the Workplace had been under review by the Commission for Unity and Racial Equality. The timetable had slipped slightly because of the need to take account of a late submission by a trade union, but the Code had been submitted to the Minister by the Commission on 13 February, and its adoption was expected in the course of 1997.

17. Paragraph 213 noted that the Government of the British Virgin Islands had decided to legislate against racial discrimination along the lines of the United Kingdom's Race Relations Acts. A bill on that subject was being drafted for enactment in the course of 1997. The proposal to include a bill of rights in the Constitution of the British Virgin Islands (para. 206) had been accepted in principle, although much detailed work remained to be done. The bill of rights would, of course, include a provision prohibiting racially discriminatory legislation or racially discriminatory action by public authorities.

18. Lastly, in respect of St. Helena, he had been informed that the proposed legislation against racial discrimination referred to in paragraph 303 would be submitted to the Legislative Council, whose next meeting was to begin on 14 March, its first since the report had been finalized. Similar legislation for Ascension Island would be prepared in due course. As the report made clear, legislation for Tristan da Cunha had already been enacted.

19. Mr. S. WONG (United Kingdom) said that he would like to inform the Committee of a number of developments that had taken place over the past 12 months in relation to Hong Kong.

20. Hong Kong's human rights "portfolio" had recently been enhanced by the addition of the Convention on the Elimination of All Forms of Discrimination against Women. China was a State party to that Convention and had confirmed that it would continue to apply to Hong Kong, as would the International Convention on the Elimination of All Forms of Racial Discrimination, after the

transfer of sovereignty on 1 July 1997. Another development had been the establishment, in May 1996, of an Equal Opportunities Commission to ensure the implementation of new equal opportunities laws prohibiting discrimination on grounds of sex and disability. The Commission, which had started its work in September 1996, was actively handling complaints and inquiries and disseminating the message of equal opportunity for all. The courts continued to extend the use of Chinese and reduce court waiting-time. Steps were also being taken to see to it that there would be no unreasonable delay in hearing cases brought under the Bill of Rights Ordinance and the new Sex Discrimination and Disability Discrimination Ordinances.

21. As to the future, both the Sino-British Joint Declaration of December 1984 and the Basic Law of the Hong Kong Special Administrative Region guaranteed that the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong would continue to be observed. Those guarantees, together with the ongoing application of the International Convention on the Elimination of All Forms of Racial Discrimination and other human rights treaties, provided the firm assurance that internationally recognized human rights would continue to be protected and valued.

22. Regarding racial discrimination in particular, he wished to update three points in the fourteenth report. In paragraph 254, it had been stated that the Hong Kong Government aimed to start work on a study on racial discrimination in 1996. That work had in fact begun, and the "desk study" phase had been completed. Findings had been released in the form of a public consultation document, currently being circulated among the members of the Committee, and the Hong Kong public had been asked to submit views by the end of April. The Hong Kong Government was "on target" for reporting to the Legislative Council in Hong Kong within the current legislative session.

23. The question of nationality in relation to Hong Kong's ethnic minorities had been discussed in paragraphs 259-265. As Mr. Steel had just explained, that issue had since been resolved. The decision by the United Kingdom Government to grant full citizenship to members of ethnic minorities who were solely British nationals had been warmly welcomed by all in Hong Kong.

24. Paragraph 273 explained that the Hong Kong Government provided assistance for secondary schools organized by Vietnamese migrants and non-governmental organizations (NGOs). Recently, it had commissioned the International Social Service to coordinate secondary education in the detention centres. The Government also provided accommodation, furniture, stationery and sports equipment. Education services were offered to all Vietnamese children in the detention centres free of charge, and the Vietnamese syllabus was taught to facilitate their educational reintegration upon their return to Viet Nam.

25. Mr. RECHETOV (Country Rapporteur) said that the Committee was grateful to the United Kingdom for sending an impressive delegation and for the very useful additional information which it had provided, thereby demonstrating its serious and responsible approach towards cooperating with the Committee.

26. When the Committee had discussed the United Kingdom in 1996, it had noted that the State party had not been ready to make the declaration provided for under article 14 of the Convention, and several members had asked the United Kingdom to review its position on that question. A number of racially-motivated acts perpetrated against ethnic minorities had been noted, and in its last recommendation (A/51/18, para. 255), the Committee had asked the United Kingdom to update information on the dependent territories, including Hong Kong; the United Kingdom delegation had just responded to that request. The fourteenth report showed that the United Kingdom was determined to protect human rights in the area of inter-ethnic relations. However, several points still needed to be clarified. A number of incidents in Hong Kong motivated by racism and xenophobia continued to give cause for concern.

27. Turning to the individual paragraphs in the fourteenth report, he said that the sentence in paragraph 4 to the effect that the United Kingdom already had some of the most stringent and comprehensive anti-discrimination legislation in Europe was perhaps overstated and seemed to be at variance with paragraph 7, which said that the mechanisms in place to combat racism and racial discrimination had helped improve the position of ethnic minorities but that there were no grounds for complacency.

28. With regard to paragraph 10, which stated that no United Kingdom law was endowed with status superior to other laws, he drew attention to paragraph 229 of the Committee's report, which noted the fact that the 1976 Race Relations Act was subordinate to a wide range of rules and could be superseded by new rules or laws. In the same paragraph, the Committee had criticized the fact that the legal framework prohibiting racial discrimination was further weakened by the non-incorporation of the Convention in domestic legislation, the absence of a bill of rights espousing the principle of equality before the law and non-discrimination, and the lack of recourse of individuals to petition an international body such as the Committee. Thus, the response contained in paragraph 10 of the fourteenth report was not entirely satisfactory.

29. In paragraph 251 of its report, the Committee had noted with concern the absence of legislation in Northern Ireland to outlaw racial discrimination and the Government's statement that close consideration was being given to that issue; it had also recommended that a bill should be promulgated as soon as possible. It was not clear whether such legislation had been enacted. With regard to the situation in Northern Ireland, he had the impression that too much emphasis was placed on legislation and not enough on the behaviour of some members of the police, deaths in custody and the effect of the many administrative rules on detention, especially during emergency situations. The question therefore remained open in his mind.

30. In paragraph 20, the United Kingdom maintained its position that its domestic law in the area of incitement to racial hatred was tried and tested. In the view of the Committee, such an interpretation was tantamount to a negation of all obligations under article 4 of the Convention to prohibit organizations that promoted racial discrimination. If United Kingdom domestic law in the area was really tried and tested, then the situation with regard to racial discrimination in that country would be better than it currently was.

31. He was impressed by the description of what was being done to improve police-community relations (paras. 27-30). The Committee had noted that deaths in police custody were under rigorous investigation by the British authorities and that lay visiting schemes for the inspection and supervision of detention centres had been established to monitor racially-motivated incidents.

32. Initiatives to increase the participation of ethnic minorities in public and government office had satisfied the Committee's earlier concerns. Although the statistics on posts occupied by those minorities were not impressive, they were realistic and demonstrated the serious approach adopted by the authorities. The growing trend to recruit members of ethnic minorities to the police and the armed forces was important for social stability.

33. The Committee had been concerned that the Asylum and Immigration Bill pubished in November 1995 would have had a discriminatory effect on the status of many individuals residing in the United Kingdom. However, the measures taken by the Government appeared to be well-balanced and compatible with the provisions of the Convention. While it was encouraing to note that religious discrimination was rare in Britain and that effective measures had been adopted to promote equality of opportunity in housing, the high rate of unemployment among members of ethnic minorities gave rise to concern.

34. The publication of the Code of Practice for the Elimination of Racial Discrimination in Education was a commendable response to that aspect of discrimination. However, there was a need for statistics on the enrolment of ethnic-minority students in courses of higher education (mentioned in paras. 92-94) and clarification of the use of the term "unlawful" in paragraph 98.

35. Turning to the implementation of human rights in the United Kingdom, he referred to paragraphs 105 and 106 concerning constitutional arrangements, legal doctrine and the primacy of domestic law. While he did not agree with the position taken in paragraph 105, he understood the doctrine. He did not, however, understand paragraph 106, which implied that provisions on the binding nature of human rights instruments would have an adverse effect on domestic legislation. The criteria embodied in internationally-recognized human rights instruments were essential for the observance of such rights. He therefore requested an explanation of the status of a "bill of rights" in that context.

36. With reference to paragraph 107, he wished to know whether special text books had been produced to take account of the ethnic and cultural diversity of the United Kingdom.

37. In concluding his queries on section I of the report, he asked how the option of making a declaration under article 14, of the Convention would adversely affect the United Kingdom.

38. Turning to the situation in the crown dependencies, he welcomed the fact that the United Kingdom authorities had afforded those territories the opportunity to undertake an appropriate review of their legislation on racial discrimination. In response to paragraphs 131 and 168, he said that it was

advisable for Guernsey and the Isle of Man to enact legislation prohibiting racial discrimination, even in the absence of evidence of racial disharmony, as there was no guarantee that the current situation would prevail indefinitely.

39. The Committee was pleased to note from paragraph 172 of the report (sect. III: Dependent territories) that the Government of the United Kingdom, after considering the Committee's earlier recommendations, had invited the Governments of those territories to introduce legislation on race relations, since some territories had no legislation equivalent to the United Kingdom's Race Relations Act of 1976.

40. With regard to the situation in Hong Kong, he noted the report's detailed account of the ethnic composition of the population and legislation against racial discrimination. He nevertheless wished to stress that the previous year the Committee had expressed its concern that the Hong Kong Bill of Rights Ordinance did not protect the inhabitants of Hong Kong against acts of racial discrimination perpetrated by individuals, groups or institutions. For ethnic minorities the question of nationality was of paramount importance and there had been encouraging signs that the Government of the United Kingdom had worked in earnest to meet the needs of the various ethnic minorities living in Hong Kong.

41. As confirmed in paragraph 174, the Convention would apply to the Hong Kong Special Administrative Region after 1 July 1997. Respect for human rights was a crucial consideration and Hong Kong would continue to be subjected to international review through the presentation of periodic reports and ongoing scrutiny by a number of NGOs which had already expressed a wide range of opinions on the status of human rights in Hong Kong after transition to Chinese rule.

42. Mr. ABOUL-NASR, speaking on a point of order, said he had received the country report just before the start of the meeting and therefore felt at a severe disadvantage and unprepared to participate in the discussion. While thanking the Country Rapporteur for his in-depth analysis, he asked whether the report would be considered under article 9 or article 15 of the Convention.

43. Mr. RECHETOV said that the report had been issued some months earlier; he was convinced there was nothing to prevent consideration of the report under either article 9 or article 15. In examining the policy of the United Kingdom Government concerning its dependent territories and Crown Dependencies, it was quite clear that it had consistently tried to ensure the adoption of new legislation by the territories in the spirit of the Convention and in accordance with the Race Relations Act of 1976.

44. The CHAIRMAN said the Committee would consider the report again under article 15 of the Covention.

45. Mr. van BOVEN expressed appreciation for the intensive dialogue the United Kingdom delegation had maintained with the Committee by regularly and faithfully fulfilling its reporting obligation. Although he might not agree with all the comments made by the United Kingdom in its report, he was

satisfied that the Governments of the United Kingdom and Hong Kong had made a great effort in providing detailed information in their response to the Committee's concluding observations. Those observations were a vital tool for the Committee and for others interested in the full implementation of the Convention.

46. He joined Mr. Aboul-Nasr in stating that he felt handicapped by the late receipt of the report. Through no fault of the United Kingdom delegation, he too had been unable to obtain the report, the supplementary information contained in the annexes or information submitted by NGOs promptly enough to study the report in the thorough manner it deserved.

47. He was not satisfied with the reply given in paragraphs 10, 105 and 106 of the report to the Committee's expression of concern about the weak status of the Convention in the domestic legal system. The United Kingdom was a subject of international law. Domestic constitutional arrangements did not justify failure to comply with a State party's international obligations, which were a matter of State responsibility. The statement in paragraph 105 that Parliament must "have regard to" the United Kingdom's international obligations left scope for non-compliance. Moreover, the basic principles set forth in the Convention were generally considered to be imperative norms of international law, forming part of jus cogens. He welcomed the tabling of new anti-racist legislation in Northern Ireland, although he had not had time to study its content. The United Kingdom's interpretation of article 4 of the Convention was still a matter of concern, and ran counter to developments in many other European countries, which were introducing new legislation in view of the rising threat of xenophobia and racial hatred in their societies.

48. Referring to article 5 (b) of the Convention and specifically the issue of deaths in custody, he asked for more details about the lay visiting schemes referred to in paragraph 37 of the report, particularly how the schemes and the reporting system functioned. On the subject of racial incidents referred to in paragraphs 38 and 39, he hoped that the next report would contain more information about the new Racial Incidents Standing Committee's work and findings.

49. The Asylum and Immigration Act 1996 could be compared with similar, increasingly restrictive, legislation in other European countries. The Act provided for the summary removal of certain categories of asylum-seekers. The provision that they could appeal against their removal only after they had been returned to allegedly safe countries was ineffective and in many instances worthless. He noted from paragraph 58 that the Act would apply equally to all persons regardless of their ethnicity, but pointed out that the Convention concerned not only the purpose but also the effects of measures taken. More explanations were needed about the countries listed in that paragraph, whether they were considered safe and whether Europe was regarded as including Turkey, for instance.

50. He shared the concerns expressed in the report of the Glidewell Panel on some of the provisions of the Asylum and Immigration Bill 1995, in particular, concerning the dangerous implications for race relations of the clause making it a criminal offence to employ an immigrant who was not legally entitled to work in the United Kingdom, and the implications of the withdrawal of very basic social benefits from immigrants, and its effect on appeal rights.

51. The Commission for Racial Equality (CRE) had a very important function. Was he right to assume that the budget for that Commission had been significantly reduced? It so, the Commission's work would be seriously affected.

52. He regretted that the United Kingdom was not considering making the declaration under article 14 of the Convention, particularly in view of the European Union's position that international procedures for the promotion and protection of human rights should be strengthened. He did not agree that the right of individual petition under the European Convention on Human Rights was a sufficient reason for failing to accept the special procedure under article 14 in view of the very limited scope of that Convention's non-discrimination provision.

53. Regarding the Crown Dependencies and dependent territories, it was insufficient to say that there was no need to introduce legislation against racial discrimination; the point at issue was whether the Convention was applicable or not. If it was, it should be implemented throughout the territory of the United Kingdom. It should be borne in mind that the Convention was also concerned with prevention. He agreed with Mr. Aboul-Nasr that the Committee might do well to consider all information available on dependent territories under article 15 of the Convention in order to obtain a more complete picture of the situation in such territories.

54. On the subject of Hong Kong, he was not fully satisfied with the reply given in paragraph 257 to the Committee's concern that the Bill of Rights Ordinance did not protect persons from racial discrimination by private persons, groups or organizations, and referred the Government to article 2, paragraph 1 (d). Nor was he fully satisfied with the replies about domestic helpers; again, the discriminatory effect, and not just the purpose, of a rule or law must be considered. The "two-week rule" appeared to have a racist dimension, since it was women from the Philippines who were principally affected. He shared the Country Rapporteur's concern about the continued application of the Convention in Hong Kong after the transfer of sovereignty to the People's Republic of China. Since that State was a party to the Convention, he expressed the hope that it would comply with its obligations and include in its next report a specific chapter on Hong Kong.

55. Noting the public interest taken in the United Kingdom in that State's periodic reports to the Committee, he requested information on the publicity given to the reports and to the Committee's concluding observations, particularly in view of the recommendation by the chairpersons of the human rights treaty monitoring bodies, endorsed by the General Assembly, that the full text of the concluding observations should be widely disseminated by States parties in their own territories.

56. Mr. DIACONU commended the United Kingdom Government for taking into account the Committee's concluding observations on the previous report, tackling the issues raised and attempting to find solutions. He welcomed the efforts made in the United Kingdom to involve civil society in general in the implementation of the Convention.

57. On the subject of ethnic-minority populations in Northern Ireland, he asked whether the research findings referred to in paragraph 17 of the report had been published, and whether the regional conference due to be held in November 1996 and referred to in paragraph 18 had taken place and what the results had been. Little information was given on the Irish minority living on the mainland. What was the size of that population? How did its standard of living compare with the rest of the population? And to what extent did it enjoy equal economic and social rights and benefits?

58. Referring to paragraph 58, he questioned the list of countries named as producing large numbers of unfounded asylum applications, pointing out that some unnamed countries might be considered more directly concerned than those mentioned. On the subject of racial harassment in housing, dealt with in paragraphs 81-83, he asked whom the Housing Act 1996 was intended to protect in providing for a 12-month probationary period during which tenants whose behaviour was unacceptable could be evicted, since new tenants were likely to be those of a different ethnic background or race. With reference to paragraphs 99 and 100, more details were needed on equal opportunities for participation in cultural activities other than broadcasting, such as the press, cultural centres and libraries. While he welcomed the opportunities to study foreign languages in schools as described in paragraph 109, he asked whether curriculum content reflected the ethnic diversity of the population and was conducive to a better understanding of ethnic minority cultures.

59. Experience in Northern Ireland prompted the comment that every effort should be made to introduce race relations legislation and apply it in practice throughout the Crown Dependencies and dependent territories.

60. With regard to the implementation of article 4 of the Convention, the Committee maintained its position that racist propaganda and organizations should be outlawed. Documentary evidence showed that there were organizations in the United Kingdom which promoted and incited racial discrimination and claimed responsibility for racial attacks. Information in his possession pointed to the ethnic or racial causes of deaths in custody and the discriminatory effects of police "stop-and-search" powers. He hoped that the Government would consider carefully the findings of the ethnic monitoring exercises referred to in paragraphs 31 and 36 and take steps to avoid racially-motivated violations of human rights in those areas.

61. Mr. WOLFRUM said that he, too, had received the documents very late. The presentation of the United Kingdom report along the lines of the Committee's concluding observations on the previous report should serve as a model, especially in the case of updating reports. While noting the statement in paragraph 4 that the United Kingdom had "some of the most stringent and comprehensive anti-discrimination legislation in Europe", the flaw in the Government's approach could be seen from paragraphs 105 and 106, since that legislation could be superseded by new laws enacted by Parliament. It was

therefore regrettable that no consideration was being given to drafting a comprehensive national bill of rights whose provisions would take precedence over other legislation.

62. He welcomed the introduction of anti-racist legislation for Northern Ireland, but would appreciate some comment on apparent deficiencies in that legislation, notably exemption on the additional grounds of public order and public safety, and the fact that bodies working in the fields of health, education, social services, planning and housing did not have the same positive legal duty to eliminate discrimination as their counterparts in Great Britain.

63. More information was needed on reported police maltreatment of Black offenders, and on the fact that Black people were over-represented in the prison population, served longer sentences than their White counterparts and were less likely to be granted bail. According to official figures, members of the Black minority were more likely to be victims of stop-and-search procedures and persons belonging to ethnic-minority groups were under-represented in the police.

64. He asked why the Criminal Justice and Public Order Act 1994 and the new offences it covered did not apply to Northern Ireland, whether the Government of the United Kingdom planned to rectify that anomaly, and whether the forthcoming census in Northern Ireland would contain questions relating to ethnic minorities.

65. Newspaper reports had indicated that the Government of the United Kingdom was opposed to the establishment of a centre to monitor racism and xenophobia in member States of the European Union. Clarification of the Government's position would be welcome.

66. He asked whether training was provided for judges in the United Kingdom to assist them in their dealings with people from various ethnic backgrounds.

67. The information in the report concerning the Irish Traveller community was inadequate. The health and social conditions of the Traveller community were apparently worse than those of the rest of the community. Was that true and were there any plans to improve the situation?

68. It was regrettable that the Government of the United Kingdom had not withdrawn its reservation to article 4 of the Convention, despite the Committee's suggestions and recommendations of March 1996. Information would be welcome on administrative acts undertaken by the Government to disband racist organizations.

69. Paragraphs 105 and 106 of the report raised more questions than they answered. For example, it was not clear what was meant by "long-standing constitutional arrangements". If it was a reference to the sovereignty of Parliament, then it contradicted the assertion made in paragraph 4 of the report. The United Kingdom should consider following the example of Canada and establish a bill of rights that provided for the elimination of racial discrimination.

70. Paragraphs 116, 124-128 and 153 all stated that there was no need to enact specific legislation to prohibit racial discrimination in Guernsey and Jersey. Although international law, and hence the Convention, was part of the law of the land, it was still preferable that domestic law should deal specifically with the prohibition of racial discrimination and be invoked directly before the courts.

71. With regard to Hong Kong, the book distributed to members of the Committee entitled Hong Kong 1996 stated that the main language of the courts in Hong Kong was English but that in the Court of Appeal, the High Court, district courts and certain tribunals, English was the only language used. People who did not speak English therefore needed interpretation, which raised the question of who provided the service and who met the costs. Moreover, it was a source of concern that a large part of the population should be restricted to the use of English in those courts.

72. He asked for clarification relating to information he had received that non-Chinese university staff members were given preference in terms of university housing.

73. The granting of British nationality was a subject of concern in that the solution arrived at was discriminatory and the explanations given in the report were unsatisfactory.

74. Mr. DE GOUTTES commended the fourteenth periodic report of the United Kingdom, which followed closely on the heels of the previous report, tried to answer the many questions raised by the Committee in March 1996, and showed the scope of legislative and other provisions implemented by the United Kingdom to combat racism and ethnic discrimination.

75. Of particular interest was the information concerning the new Asylum and Immigration Act 1996 and also the reference in paragraph 274 to the commitment made by the Chinese that the Convention would continue to apply to the Hong Kong Special Administrative Region from 1 July 1997.

76. The United Kingdom's interpretation of article 4 of the Convention did not reflect that of the Committee and was in sharp contrast with General Recommendation XV (42). The comment in paragraph 20 that the right balance had been struck between the tradition of free speech and the protection of United Kingdom citizens from abuse and insult raised an issue that had been often discussed in the Committee, namely, the question of the conflict of rights. That was an area that obviously needed to be looked at further by the Government of the United Kingdom and the Committee.

77. Paragraph 5 of the report referred to "a new offence of intentional harassment" under the Criminal Justice and Public Order Act 1994 but did not give specific details of how the new legislation differed from existing instruments or what the offence related to in practice. Clarification would therefore be welcome.

78. There was still concern at the fact that the United Kingdom had not responded to the points raised by the Committee on the question of incorporating the Convention into domestic law, the lack of recourse of individuals to petition an international body such as the Committee and the fact that laws relevant to the implementation of the Convention did not appear to be uniformly applied throughout the territory of the United Kingdom.

79. Of equal concern was the fact that the Race Relations Act did not extend to Northern Ireland and that some provisions of the Criminal Justice Act did not apply to Scotland. Although measures would be taken to remedy the situation in Northern Ireland, there were apparently no plans to do the same in Scotland.

80. The United Kingdom had not followed up the Committee's recommendation that detailed information should be provided on complaints and sentences relating to acts of racial or ethnic discrimination, which would be of use to the Committee. Nor had information been forthcoming on the role of the Ethnic Minorities Advisory Committee, on whether the training it provided was obligatory for all judges and on how many judges had actually received training to date.

81. He asked if the Government of the United Kingdom had given any further thought to making a declaration under article 14 of the Convention relating to the right of individual petition.

82. Mr. SHERIFIS complimented the United Kingdom on its fourteenth periodic report and its willingness to enter into fruitful dialogue with the Committee. He would be grateful if copies of the introductory statements made by the delegation of the United Kingdom could be provided to members of the Committee.

83. It was his understanding, which he hoped would be proven wrong, that the Government of the United Kingdom had opposed the creation of a centre to monitor racism and xenophobia in member States of the European Union, despite the unanimous support shown by the other members.

84. The position taken by the United Kingdom on article 14 of the Convention, as described in paragraph 112 of the report, was regrettable. As the United Kingdom took a leading position on many issues, it should give serious thought to making a declaration under article 14.

85. It was not clear from the report how and if the Convention and the work of the Committee were being publicized in the United Kingdom. Clarification would therefore be welcome.

86. Further explanations were also needed on paragraph 58 of the report, particularly the reference to there being "nothing racist about designating countries which produce large numbers of unfounded asylum applications" and the fact that the conditions in a country would be taken into account when determining a claim for asylum.

87. The CHAIRMAN, speaking as a member of the Committee, said that she welcomed the statement made by the Home Secretary before the House of Commons concerning the granting of British passports to 8,142 stateless citizens of Hong Kong. She was, however, alarmed at a report on the prevalence of anti-Muslim sentiment which, either subtly or overtly, had become part of the fabric of everyday life in modern Britain and was being perpetuated by the media. Information should be provided in the subsequent report of the United Kingdom.

The meeting rose at 6 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1187th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 4 March, at 10 a.m.

Chairman: Mr. GARVALOV

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GE.97-15769 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Fourteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (continued) (CERD/C/299/Add.9; HRI/CORE/1/Add.5/Rev.1)

1. At the invitation of the Chairman, the members of the United Kingdom delegation resumed their places at the Committee table.

2. Mr. LECHUGA HEVIA said that he would like to put three questions to the United Kingdom delegation. In the first place, it appeared that, under the Race Relations Act 1976 (CERD/C/299/Add.9, para. 11), advertisements indicating an intention to discriminate were, with few exceptions, unlawful (HRI/CORE/1/Add.5/Rev.1, para. 141). He would like to know what those exceptions were.

3. Secondly, he wondered why the Public Order Act 1986, which had strengthened legislation regarding incitement to racial hatred and under which a person using threatening, abusive or insulting words or behaviour or displaying, publishing or distributing such material was guilty of an offence (HRI/CORE/1/Add.5/Rev.1, para. 143), covered broadcasting "except by the British Broadcasting Corporation and the Independent Television Commission.". What was the reason for those two exceptions?

4. Thirdly, it would be interesting to know what the Government intended to do to prevent deaths in police custody and to punish those responsible. While recognizing the extreme seriousness of that situation, the Government nevertheless provided for the continued publication of annual statistics of such deaths (CERD/C/299/Add.9, paras. 35 and 36).

5. Mr. CHIGOVERA said that, while he understood the thinking that the absence of entrenched legal provisions in English law rendered it possible, in case of need, to modify or replace such provisions, he wondered how such an approach could be reconciled with the international obligations contracted by the United Kingdom. Did the principle of parliamentary sovereignty mentioned in paragraph 10 of the report mean that the United Kingdom's international obligations were subordinated to the sovereignty of the United Kingdom Parliament?

6. With regard to paragraphs 259-265 of the report, he was concerned about the future of the ethnic minorities of South Asian origin in Hong Kong after the transfer of sovereignty. At its forty-eighth session, the Committee had emphasized the fact that the status of those people did not entitle them to a right of abode in the United Kingdom, as contrasted with the "full citizenship status conferred on a predominantly white population living in another dependent territory", namely, the Falkland Islands. If, as paragraph 265 seemed to indicate, that difference in treatment was a product of the invasion of the Falkland Islands in 1982, the question arose whether such a criterion was well-founded. With respect, on the other hand, to the British Nationality (Hong Kong) Bill, referred to in paragraph 12 of the document submitted by the House Committee of the Legislative Council of Hong Kong, he would like to know

what the current situation of that instrument was and what its impact would be on the status of the ethnic minorities whose fate was of concern to the Committee.

7. Mr. FERRERO COSTA, having congratulated the United Kingdom on the regularity and punctuality with which it submitted its reports to the Committee, said that there were nonetheless some points in the fourteenth report that required clarification. It was good news that a Proposal for a draft Race Relations (Northern Ireland) Order in Council had been published (para. 15), but it would be interesting to know whether the Proposal had been adopted and what its precise content was and, particularly, to what extent it differed from the general Race Relations Act 1976. With respect to that text and the criticisms made by several non-governmental organizations (NGOs) concerning it, he asked why its drafters had not tried to remedy the inadequacies of the 1976 Act, why two exceptions had been added regarding public order and public security respectively and why social-welfare organizations in Northern Ireland did not seem to have the same rights with respect to the application of racial non-discrimination as other such organizations in the United Kingdom.

8. The maintenance of the United Kingdom Government's radical position with regard to article 4 of the Convention was difficult to explain in the light of current European realities and it would be useful if the delegation would give some precise details of the existence in the United Kingdom of organizations, political movements or groups inciting to racial discrimination or hatred. As for the incorporation of the Convention in national legislation, the United Kingdom had contracted international obligations, and the principle of parliamentary sovereignty took account neither of contemporary facts nor of modern concepts of international law. More accurate information would also be needed concerning the racial incidents that had occurred in recent years, the number of complaints lodged and the current situation of minorities in the country.

9. He did not see any reason to change the Committee's practice of asking States parties to supply information concerning the territories under their jurisdiction. In connection with Hong Kong, he would like to know whether, under the Sino-British Agreement, China would be required to apply the international conventions signed by the United Kingdom. According to articles 151 and 153 of the Basic Law of the future Hong Kong Special Administrative Region, it appeared that Hong Kong would have a certain autonomy in international matters. It would be desirable to have some details on that question.

10. Mr. VALENCIA RODRIGUEZ said he was pleased to see that the United Kingdom acknowledged in its report the existence of racial discrimination and xenophobia in Great Britain and that it was taking steps to combat those evils. In doing so, it was supported by practices and legislative provisions that were among the strictest and most comprehensive in Europe. He would like to obtain some information on the application of the Proposal for a draft Race Relations (Northern Ireland) Order in Council, which had been published in 1996 (CERD/C/299/Add.9, para. 15).

11. He would also like some clarifications on various points mentioned in the report, on the basis of the information contained in a document from the National Council for Civil Liberties entitled "Human Rights and Race Discrimination". Thus, with respect to the Race Relations Act 1976 which, he thought, had gaps and weaknesses due in particular to its subordination to other legislative provisions, he asked if steps had been taken to remedy the negative consequences of that situation on the campaign against discriminatory practices.

12. Thousands of acts of racial discrimination in matters of employment were committed daily in Great Britain against members of ethnic minorities, not least in the wording of offers of employment. The Committee would like to hear what the Government was doing to ensure the equality of all when it came to employment.

13. Several information sources had pointed out that mortality rates were particularly high in certain groups, such as the Irish population, as against the rest of the population of the United Kingdom. It would be useful to know what steps the authorities were taking to eliminate a phenomenon that amounted to discriminatory practices in health matters.

14. He also asked what the Government was doing to combat the anti-Semitic activities of neo-Nazi groups and attacks on the Traveller community, which was protected by the 1976 Act.

15. He wondered whether the United Kingdom considered that the right to freedom of expression and opinion could cover the barbaric, racist acts committed by some of its citizens. It was astonishing that only the organizations implicated in terrorist activities in Northern Ireland were banned, while neo-Nazi, anti-Semitic or Fascist paramilitary organizations such as the British National Party, Combat 18 or the National Front were free to continue their racist and discriminatory activities with complete impunity.

16. More than 10,000 people, mainly asylum-seekers, held under the Immigration Act were allegedly subjected to ill-treatment and abuse in British prisons. Was the Government doing anything to remedy that situation? Moreover, it was questionable whether the many discriminatory provisions in the new Asylum and Immigration Act were well-founded, such as the ban on new arrivals working for six months from their arrival in the United Kingdom.

17. Since the ethnic minorities represented only 1.5 per cent of the police forces and most policemen belonging to ethnic minorities resigned because of discrimination in matters of promotion, he asked what steps the Government was taking to prevent that form of discrimination.

18. On various pretexts, the police arrested the members of ethnic minorities more readily than other citizens. He wondered whether the United Kingdom Government did not consider that practice to be an intolerable form of discrimination.

19. The 1994 report on complaints about the police indicated that 48 people, most of them belonging to minority groups, had died in police custody, as

against 47 in the preceding year. He wished to know what were the results of the inquiry undertaken to shed light on the presumed responsibilities of the police in a number of those deaths.

20. It would seem that, in respect of employment, social situation, housing and health, minority groups were at a disadvantage as compared with other groups or lived in dire poverty. The Committee would like to know what the Government was doing to remedy that situation.

21. The CHAIRMAN, speaking as a member of the Committee and having expressed his appreciation of the high quality of the United Kingdom report, said he noted that the State party had a particularly restrictive interpretation of article 7 of the Convention. In that connection, he pointed out that the word "teaching" was to be construed in the widest sense and applied to the education and information not only of children and young people but also of judges, officials and teachers. It referred, in fact, to an apprenticeship in the culture of opposing racial discrimination and racism. That was the object of article 7 of the Convention which specified that the States parties undertook to promote understanding, tolerance and friendship among nations and racial or ethnic groups.

22. He had noticed that, in the report, the State party used various expressions such as "minority groups", "ethnic minorities" and "ethnic groups" and wondered if they corresponded to different factual situations. He would also like further information on the "specific training" received by members of the staff of the Immigration and Nationality Directorate of the Home Office (para. 59).

23. Mr. ABOUL-NASR said he had been most surprised that the situation of human rights in Hong Kong had, for some time, been receiving considerable attention, out of all proportion to the interest shown in the subject in the other dependent territories of the United Kingdom. He found it particularly astonishing that the occupying Power should have done so much recently to endow the territory with democratic institutions and advanced legislation for the protection of human rights. In view of the fact that the occupying Power had taken few initiatives along those lines in 140 years of presence in Hong Kong, he would like to know whether that sudden burst of energy was connected with the forthcoming transfer of Hong Kong to the jurisdiction of the People's Republic of China.

24. Mr. GILLESPIE (United Kingdom), having thanked the members of the Committee for their constructive comments on the submission of the fourteenth periodic report of the United Kingdom, said that the differing expressions used to indicate ethnic minorities did not reflect any substantive differences.

25. Mr. STEEL (United Kingdom) said he regretted that the wording of paragraphs 105 and 106 had given rise to some confusion concerning the incorporation of the provisions of the Convention in the domestic legislation of the United Kingdom. Those paragraphs did not mean that the United Kingdom was using the doctrine of parliamentary sovereignty to avoid its obligations regarding the application of the international instruments to which it was party. It simply took the view that the Convention committed the States

parties to achieving certain results and situations but did not dictate to them the ways and means to be used. More specifically, the United Kingdom had recourse to a mixture of legislative provisions and administrative measures. Its practice was not to incorporate international instruments in its domestic legislation, for reasons of clarity and evolutional flexibility. There was nothing in the Convention which obliged it to change its methods.

The meeting was suspended at 11.15 a.m. and resumed at noon.

26. Mr. STEEL (United Kingdom) said, with regard to the interpretative statement that the United Kingdom had made concerning articles 4 and 6 of the Convention at the time of ratification, that he thought it unlikely that his Government would review its interpretation of the Convention, especially with regard to article 4. In that connection, he invoked the principle whereby, in the terms of the Convention, Governments were free to exercise their own judgement, in the light of their own situations, where to strike the proper balance between the prevention of offensive behaviour and the need to guarantee freedom of expression, meeting and association. In response to a suggestion by Mr. Wolfrum, he said that, in the United Kingdom as in all democratic countries, the Government had no right to ban organizations or publications other than to the extent that it was empowered to do so by law. In his view, article 4 related only to the legislative measures that the contracting parties should adopt.

27. As for the right of individual petition set forth in article 14 of the Convention, his delegation had received no instructions to indicate that the Government had modified the position set out in paragraph 112 of the report (CERD/C/299/Add.9).

28. In reply to the questions asked by Mr. Wolfrum and Mr. Chigovera on the subject of ethnic minorities in Hong Kong having British nationality only, he recalled that, in his introductory statement, he had informed the members of the Committee that an act along the lines of their recommendations was to be promulgated before 1 July 1997. That would permit the Hong Kong ethnic minorities with British nationality only to acquire full British citizenship and the right of abode in the United Kingdom. As for the question, asked by Mr. Ferrero Costa, concerning the continuation of the international obligations contracted under international human rights instruments, he said that, under the Joint Declaration on the question of Hong Kong, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights would continue to apply to Hong Kong. Moreover, China had accepted the Convention on the Elimination of Racial Discrimination and committed itself to submitting reports. In reply to Mr. Aboul-Nasr, he said that, while he regretted that all the provisions to protect human rights in Hong Kong had not been adopted earlier, he wished to emphasize the importance of that development.

29. Mr. WONG (United Kingdom), replying to comments by the Country Rapporteur, Mr. Rechetov, and Mr. van Boven on the subject of the absence from the Bill of Rights Ordinance of a provision protecting the inhabitants of Hong Kong from racial discrimination practised by private persons, groups and organizations, referred them to paragraphs 257 and 258 of the report (CERD/C/299/Add.9). He nonetheless wished to state that the Hong Kong

Government was concerned about the legal implications such a provision could have for the private sector, which was more comfortable with detailed legislation than with general principles. It was better to adopt specific acts where a need was felt, as had been the case in the areas of discrimination against women and disabled persons and the protection of privacy.

30. With respect to Mr. Wolfrum's question concerning bilingualism in legislative and judicial matters, he replied that a 1987 Ordinance required the Hong Kong Attorney-General's Chambers to draft all new legislation in Chinese and English and to have translated into Chinese previous legislation enacted in English. To that end, an Advisory Committee had been set up to examine the Chinese versions of the English texts and to submit them to the Governor, who was responsible for declaring them authentic. All Hong Kong legislation should be bilingual by 30 June 1997. As for the use of Chinese in the courts, the Hong Kong Government was committed to putting in place a truly bilingual court system before 1 July 1997. Considerable progress had already been made. The use of Chinese by lawyers and magistrates had first been authorized in the magistrates' courts and then, gradually, in the other courts, the first appeal in Chinese having been heard on 13 February 1997. Moreover, in the criminal courts, summonses and charge sheets were currently drafted in both English and Chinese. The latter language would be used more and more in the courts, a development he welcomed. The legal system should be at the service of the general population and, for the first time, most of the inhabitants of Hong Kong would have access to the law in their own language.

31. In reply to a question by Mr. Wolfrum, he said that members of the staff of the University of Hong Kong who were of Chinese origin but habitually resided outside Hong Kong, China, Taiwan and Macau had expatriate status and the benefits linked thereto.

32. Mr. NEALE (United Kingdom), referring to paragraph 58 of the report, said that the Asylum and Immigration Act 1996 was intended to streamline asylum-seeking procedures, discourage illegal working and improve the system of housing and child-benefit allowances paid to persons from abroad. The Act did not change for the worse the measures benefiting asylum-seekers who were looking for work and had been waiting for six months for a decision on their application. Moreover, the Act in no way affected the Government's commitment to examine all applications for asylum, in accordance with the Convention relating to the Status of Refugees and other international instruments. The said Act enabled the Government to designate countries in which there was no serious risk of persecution and many of whose citizens sought asylum in the United Kingdom without a well-founded motive. The countries were Bulgaria, Cyprus, Ghana, India, Pakistan, Poland and Romania.

33. The 1996 Act did not authorize the persons concerned to appeal against their removal to a safe third country of the European Union until after their actual removal. Since 1996, Canada, the United States, Norway and Switzerland had been added to the countries of destination.

34. Many asylum-seekers arrived in the United Kingdom after transiting through a safe country, such as France or Germany. In that connection, he referred to the internationally accepted principle that a person should apply

for asylum in the first safe country which he reached, but added that the Act took account of certain exceptional circumstances such as the residence in the United Kingdom of close relatives.

35. With respect to article 8 of the Act in question, his Government took the view that one of the most insidious effects of tolerating illegal working was that it deprived persons with a right to live in the United Kingdom of chances of employment. Application of that provision would make it possible to improve the employment situation of persons of ethnic minority origin legally resident in the United Kingdom. The Commission for Racial Equality (CRE) (para. 63) was also doing its utmost, by the provision of guidance, to ensure that employers did not adopt discriminatory practices based on colour or race.

36. Furthermore, it should be emphasized that his Government had taken into account the concern expressed by the Glidewell Panel and that, when the bill for the said Act was under consideration, it had introduced a number of amendments which removed the word "immigrant" from article 8 and replaced it by the expression "person subject to immigration control".

37. Since February 1996, the Government had introduced various restrictions on the granting of social security benefits to asylum-seekers. Persons applying for asylum after having been allowed to enter the territory of the United Kingdom had no entitlement to social security benefits. On the other hand, those who applied for asylum on arrival in the United Kingdom were entitled to various benefits such as income support, housing benefit and council tax benefit. Entitlement ended if the application was refused.

38. Most in-country applicants originally entered the country as visitors or students. As such, they were required to demonstrate that they had the means to maintain themselves. His Government did not believe that they should be able to evade that requirement by claiming asylum. Nevertheless, anyone subsequently recognized, as a result of an appeal, as a refugee was entitled to the arrears of such benefits from the date on which he had submitted his application.

39. The Children Act 1989 ensured that the local authorities extended social protection to the children of asylum-seekers.

40. He stressed the fact that detention of asylum-seekers was a measure of last resort, was fully consistent with the United Kingdom's international obligations and affected only about 1.5 per cent of those seeking asylum. They were persons who, there were good grounds for believing, would not comply with the terms of temporary admission. If there was any indication that asylum was likely to be granted, the person was released immediately. The Asylum and Immigration Act also provided that anyone refused asylum could appeal against the decision and seek release on bail from the appellate authorities.

41. His Government considered that the steps it had taken to curb unfounded asylum applications had been successful. The number of applications for asylum in 1995 had been 43,965, whereas the number in 1996 had been only 27,930, a decrease of 36 per cent.

42. Mr. GILLESPIE (United Kingdom) said that the draft Race Relations (Northern Ireland) Order (para. 15) had been approved by both Houses of Parliament and would come into effect in May 1997. The draft reproduced virtually all the provisions of the Race Relations Act 1976, which applied in Great Britain, and would make racial discrimination unlawful in the fields of employment, training, education, housing and provision of goods and services. Individuals would have direct access to the courts and industrial tribunals.

43. Unlike the Race Relations Act applying in Great Britain, it defined, for legislative purposes, the Irish Traveller community as an ethnic group.

44. The Commission for Racial Equality had the task of supervising the working of the Race Relations Act 1976. His Government had taken account of the Commission's recommendation that it should be given the power to participate in the efforts made by individuals or associations to eliminate discriminatory practices. That power henceforth formed part of the Northern Ireland legislation. The Government intended to amend the Race Relations Act in the same way. It took the view that the draft Order guaranteed the level of security required by the particular situation in Northern Ireland. Generally speaking, the draft Order was modelled on the provisions of the Race Relations Act that applied in Great Britain. It would be noted that the draft gave specific responsibilities to the local authorities to enable them to promote good race relations at the local level. It emphasized the fact that the establishment of the Commission for Racial Equality did not absolve the local authorities from their responsibilities in relation to ethnic minority groups. Furthermore, the draft Order was designed to facilitate the campaign against any discrimination based on religion, political opinion, sexual orientation or marital status.

45. With reference to paragraphs 17 and 18 of the report, he specified that the research mentioned in paragraph 17 had been requested by the Northern Ireland Office Community Relations Unit. That research related to four major ethnic groups in Northern Ireland, namely, the Chinese, Indian and Pakistani communities and the Travellers. The research revealed that between 3,000 and 5,000 Chinese lived in Northern Ireland and constituted the most numerous ethnic community. The Government considered that that information would be very useful in determining its future action in the area.

46. The 1991 census had contained no questions relating to ethnic origin. Representatives of minority ethnic groups had been consulted so that the matter could be included in the forthcoming census in June 1997.

47. The Conference referred to in paragraph 18 had been held on 19 November 1996, with the financial support of the Department of Health and Social Security. More than 100 delegates had participated on behalf of public and charitable organizations and minority ethnic groups. The purpose of the Conference had been to encourage the ethnic minority groups to take part in the preparation of policies relating to their needs, particularly social needs.

The meeting rose at 1 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1188th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 4 March 1997, at 3 p.m.

Chairman: Mr. GARVALOV

later: Mr. BANTON

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PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY-WARNING AND URGENT PROCEDURES

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GE.97-15773 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Fourteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (continued) (CERD/C/299/Add.9; HRI/CORE/1/Add.5/Rev.1)

1. At the invitation of the Chairman, the members of the delegation of the United Kingdom resumed their places at the Committee table.

2. Mr. GILLESPIE (United Kingdom), commenting on the social, health and education provisions for the Traveller community in Northern Ireland, said that the Department of the Environment in Northern Ireland awarded grants to district councils to provide caravan sites for the accommodation of approximately 900 people, or 90 per cent of the Traveller community, in addition to the permanent sites in five of the main administrative areas. Public sector housing was also allocated on an individual basis to Traveller families.

3. The Department of the Environment had established an Advisory Committee on Travellers (ACT) in Northern Ireland to advise and encourage Councils and others involved in the provision of sites for long-term resident Travellers. In March 1992 the ACT had organized a major conference to raise awareness of Traveller issues among government departments and agencies and a number of reports on Traveller problems had been published. The Department of Health and Social Services and the Health and Social Services Boards provided a wide range of services to the public and had developed policies to assist minority communities, including Travellers, to make use of the services which addressed their special needs.

4. The policy of the Department of Education for Northern Ireland on the education of Travellers' children was that education could be most effectively provided in a non-discriminatory environment which was understanding of, and sympathetic to, the way of life of Traveller families and respected the uniqueness of their culture. It was felt that the long-term interests of both Traveller children and those of the majority community would best be served if they were educated together. In 1993 the Department of Education had issued guidelines for ensuring equality of educational opportunities for all children. The overall policy was supervised by the Northern Ireland Forum for the Education of Travellers' Children.

5. In response to questions on organizations promoting racist views, he said that such organizations did exist; although the Government had no power to ban them, membership of those organizations did not protect individuals against public order offences relating to incitement to racial hatred.

6. The police and the Crown Prosecution Service worked closely to apprehend and convict distributors of offensive material. The power of arrest introduced under section 19 of the Public Order Act 1986 had significantly improved investigative powers, particularly in identifying persons responsible for the circulation of anonymous material. The Attorney-General had consented to the prosecution of a number of persons for the circulation of material

produced by the organization Combat 18. His delegation could not comment further on that matter as the cases were currently before the courts. There were no elected representatives of such organizations at any level in the political structure of the United Kingdom.

7. Turning to questions relating to ethnic minorities and the criminal justice system, he explained that stop-and-search powers had been instituted under the Police and Criminal Evidence Act 1984 to strike a balance between the discretion to stop and search and the protection of citizens against arbitrary interference. Systematic data on police stop-and-search operations had been collected and published since 1993. That information was ethnically monitored and the Home Office had conducted two seminars in October 1996, in conjunction with the Association of Chief Police Officers, to ensure accurate collection, understanding and interpretation of the data. Since April 1996 ethnic monitoring of those activities had been extended to include arrest, cautions, homicides and deaths in police custody, and it was expected that all aspects of the criminal justice system would be monitored in future.

8. He assured the Committee that his Government intended to learn from the information it had collected in order to avoid discriminatory treatment of ethnic minorities. To that end, the Home Secretary was required, under section 95 of the Criminal Justice Act 1991, to publish the relevant information annually.

9. The interpretation of statistics on the disproportionate number of Black people subjected to stop-and-search operations was not straightforward. Consequently, the Metropolitan Police had set up a working group with the Commission for Racial Equality to study the statistics, issues of accountability and police practices.

10. The lay visiting scheme operating throughout England, Wales and Northern Ireland had evolved from a recommendation by Lord Scarman in 1981 for a system of independent, unannounced inspections of procedures and detention by local community members. The police were required to give immediate access to lay visitors, at any time of day, to inspect cells, speak to detainees and examine custody reports, with the detainees' consent. Areas of concern or complaints were immediately drawn to the attention of the custody officer, and a report on each visit was submitted to the responsible police authority.

11. Deaths in police custody in 1995 had fallen to their lowest level since 1981. For some time definitions distinguishing between the causes of death of persons in custody had been unclear. All such deaths were reported to the coroner and the Police Complaints Authority. Following full investigations, a report was submitted to the Crown Prosecution Service to determine whether an officer should face criminal charges.

12. Referring to the Committee's interest in the training of law enforcement officials, he pointed out that further details on the training of judges were contained in annex 4 of the report. All police officers received training in community and race relations matters as part of their probationary training, and more advanced training was provided at the Police Staff College. In

addition, the Home Office organized the Holly Royde seminars which focused on practical solutions to real problems faced by management-level police officers.

13. With regard to complaints of racial discrimination, he drew the attention of the Committee to annexes 11 and 12 to the report describing the role of industrial tribunals and gave figures on complaints and compensation awards. The introduction of a new offence of "intentional harassment", as mentioned in paragraph 5 of the report, was intended to enhance protection against racially-motivated violence and to apprehend persons who made life a misery for individuals of different races. The Government had strengthened its legislation in that area by removing the need to prove that harassment was intentional.

14. In the area of higher education, the statistics showed that 1 in 8 students pursuing advanced courses was from an ethnic minority. That figure compared with 1 in 20 in the general population and 1 in 14 in the 15-24 age group. The Government was seeking to promote equal opportunities for participation in higher education by a number of means, including the development of good-quality access to courses.

15. For the study of non-European languages, pupils were free to choose one of those languages from the National Curriculum list if they attended schools which offered them. The National Curriculum to be followed for all languages required development of awareness of the culture underlying the language being studied. He referred to paragraph 107 of the report, which stated the need to recognize and provide for learning about minority groups by the majority of the population; that approach had been an important element in the overall design of the National Curriculum.

16. As to the question about racial harassment in housing, he said the legislation referred to in paragraphs 81-83 was not intended to work against ethnic minorities. That initiative had arisen out of the work of the Racial Attacks Group and represented follow-up on advice on good practice which had previously been issued to local authorities.

17. In reply to questions on ethnic-minority broadcasting and other forms of cultural expression, he reported that there was a substantial and thriving minority newspaper industry in the United Kingdom, both in English and in mother tongues. Minority community groups had been assisted by local authorities to build and maintain cultural centres, and libraries were well aware of the need to provide books in languages people could read. Part III of the Public Order Act 1986 forbade the broadcasting of racially inflammatory material, and the Broadcasting Act 1990 extended that ban to include all BBC and independent television services.

18. The reference to Islamaphobia and the report of the Runnymeade Trust would be commented on in the next periodic report by the United Kingdom. The Prime Minister had expressed the Government's view that the contribution of the Muslim population of Britain to society was valued. Furthermore, there were guidelines in place to help ensure that religions were not misrepresented in the broadcast media, and legislation required broadcasting regulators to make every effort to ensure that religious views were not treated abusively.

19. Noting the interest in the socio-economic position of the Irish community in Britain, he said that, broadly speaking, the Irish community had integrated successfully in Britain. People born in Ireland had a similar socio-economic profile to that of the total population, although large numbers of Irish males tended to engage in blue-collar work. The Department of Health was tackling the problems of the Irish community through its Health of the Nation Programme.

20. He had been asked about the United Kingdom's position on the proposed European Union Monitoring Centre on Racism and Xenophobia. He wished to make it clear that the United Kingdom had not vetoed the establishment of that centre. All 15 member States of the European Union had agreed in principle on the setting-up of the centre at the meeting in Florence in 1996. The United Kingdom had been participating actively in ongoing discussions concerning the basis on which the centre should be set up.

21. Finally, regarding publicity given to the fourteenth periodic report, he said copies of the report had been placed in the library of both Houses of Parliament and it had also been circulated personally by the Parliamentary Under-Secretary of State at the Home Office to a large number of NGOs. He explained that the placement of the copies in libraries was a recognized way of bringing important documents to the attention of Parliament and the media. The Government would carefully examine the best means of publicizing the observations of the Committee.

22. Mr. SHERIFIS thanked the delegation for the quality of the dialogue and responses supplied by the United Kingdom delegation. He wished to raise an additional point concerning the education of the public about obligations of States parties under the Convention. During its forty-second session, the Committee had adopted General Recommendation XVII on the establishment of national commissions or other appropriate bodies. He therefore asked whether the United Kingdom Government had considered the establishment of such institutions or whether they had already done so on the basis of that Recommendation.

23. Mr. van BOVEN commended the delegation for its detailed replies and the model example of dialogue it had provided. There were, of course, points of disagreement to be pursued in future reports, and the Asylum and Immigration Act remained a matter of concern.

24. During the previous discussion of the United Kingdom report in 1996, the Committee had insisted that information should be included not only on Hong Kong, but also on the dependent territories. He was therefore pleased to note that the Government had complied by providing such information. He was particularly concerned that the requirements of the Convention should be incorporated into Hong Kong legislation because, in his opinion, the Bill of Rights Ordinance did not adequately respond to certain provisions of the Convention. Referring to paragraph 258 of the report concerning the introduction of a bill against racial discrimination by a member of the Legislative Council, he expressed the hope that the bill would be enacted and remain valid in the future.

25. Mr. WOLFRUM explained that he had intended to suggest not that the Government should implement the provisions of article 4 outside the framework of the law, but that it might find resourceful ways of using existing legislation on, say, criminal offences, public safety or public order to disband racist organizations.

26. Mr. de GOUTTES said that the Committee would certainly welcome the United Kingdom's positive response to its question about the apparent reluctance of the Government to support the proposed European Union Monitoring Centre on Racism and Xenophobia.

27. The Committee's request for information about training for judges by the Ethnic Minorities Advisory Committee had apparently gone unanswered and he hoped that more information would be provided in the next report on the steps taken to provide training in human rights, with particular reference to racial and ethnic discrimination, for all law enforcement officials.

28. Mr. FERRERO COSTA said that the Government's relationship with the Committee could perhaps be described not as a dialogue of the deaf exactly, but as a dialogue without a meeting of minds, since there was clearly a divergence of views on the United Kingdom's interpretation of article 4 of the Convention, whose provisions the Committee regarded as mandatory, and on the incorporation of the Convention in domestic legislation. He hoped that due attention would be given to the Committee's concerns, especially in view of the increase in racial discrimination in Europe today. With regard to Hong Kong, he appreciated the measures taken to safeguard the human rights covered by the Convention, and had no doubt that the People's Republic of China, as a State party, would continue to implement the Convention in Hong Kong.

29. Mr. GILLESPIE (United Kingdom) said that Mr. Sherifis' question about the implementation of the Committee's General Recommendation XVII would be answered in the next report. He informed Mr. de Gouttes that more detailed information about the training of judges and the role of the Ethnic Minorities Advisory Committee was contained in annex 4 to the fourteenth periodic report. The great majority of judges now attended training seminars, and the aim was to extend training to the magistrates of lower courts. The next report would contain more information about training in the police force.

30. Mr. S. WONG (United Kingdom), replying to questions about Hong Kong, said in reply to Mr. van Boven that the private member's bill against racial discrimination introduced by a member of the Legislative Council in July 1996 had already been debated and would be going through its second reading during the current legislative year. The Government believed in a step-by-step approach to anti-discrimination legislation, which must have full public support, and in the need for a thorough examination of all its implications in the light of experience. The study of racial discrimination already referred to had been put in hand in July 1996 and a consultation paper issued in February 1997. The Committee had indicated its support for that approach when it had considered the thirteenth periodic report.

31. Mr. RECHETOV (Country Rapporteur) observed that there had been no progress in the Committee's dialogue with the United Kingdom on several major

issues of principle, notably the incorporation of the Convention in domestic legislation and the interpretation of article 4. In both cases, it came down to a question of State responsibility: the Convention had been signed and ratified not by Parliament but by the State party, which was responsible for implementing its provisions. Domestic constitutional arrangements were interesting, but the substantive issue was whether the provisions of the Convention were being implemented or not. As Mr. van Boven had said, the basic provisions of the Convention concerned universal human principles, in the same way as those of the Convention on the Prevention and Punishment of the Crime of Genocide and as such were binding under international law; in legal terms, such fundamental principles as those covered by article 4 could not, therefore, be subject to reservations. The Committee should indeed discuss the question of the admissibility of reservations on the basic principles of the Convention and adopt a text reflecting its views; that being done, its dialogue with Governments which maintained reservations would make more sense and be based on the principles of international law.

32. He welcomed the additional information provided on Hong Kong. Paradoxically, the new interest in human rights in Hong Kong, referred to by Mr. Aboul-Nasr, and the wealth of information now provided highlighted some of the shortcomings of the previous situation with regard to the rights of the Chinese population, a situation that was fortunately changing now. That did not prevent the Committee from giving full attention to the continued implementation of the Convention, both now and after the transfer of sovereignty, and he hoped that further information would be duly provided in future reports by the People's Republic of China.

33. While a great deal of information had been given in response to most questions, no satisfactory explanation had been given for the observed discrepancy between the status, in regard to the implementation of the Convention, of the various dependent territories and that of the metropolitan territory. Although it was not necessarily a question of race, there might be a racial subtext. In conclusion, he expressed the hope that the Committee's useful contacts with the United Kingdom would continue.

34. Mr. GILLESPIE (United Kingdom) considered that the delegation's meeting with the Committee had not been a dialogue of the deaf but had been a very educational experience.

35. The CHAIRMAN thanked the United Kingdom delegation for its participation and for the exhaustive answers it had given to members' questions and comments. The Committee looked forward to continuing its dialogue with the United Kingdom Government.

36. The United Kingdom delegation withdrew.

37. Mr. Banton took the Chair.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY-WARNING AND URGENT PROCEDURES (agenda item 4)

38. The CHAIRMAN asked whether members wished to add any States to the list of those already scheduled for consideration under item 4.

39. Mr. WOLFRUM said that, although the Committee had decided at its previous session to remove Papua New Guinea from the list, for want of information, several unconfirmed reports in the press indicated that the situation in Bougainville was deteriorating. Although it was a small-scale conflict, it had an impact on the majority of a population which was generally neglected by world public opinion. He accordingly requested that it should be put back on the agenda for the next session.

40. At the current session, he requested the inclusion of Zaire in the list. Not only was it difficult to deal with the human rights situation in the Great Lakes region without including Zaire, but the current conflict in Zaire itself had clear ethnic components.

41. Mr. van BOVEN supported Mr. Wolfrum's proposals. He, too, had heard disturbing reports about the situation in Papua New Guinea. Although there was always an element of selectivity in the Committee's choice of situations warranting attention and he had some doubts about an effective response, the Committee had in the past adopted a position of special responsibility towards Papua New Guinea. As the Committee's Country Rapporteur for Zaire at its previous session, he had quoted extensively from the report of Mr. Garretón, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Zaire, drawing attention to the potentially explosive situation and ethnically-motivated violations of human rights in that country. There, too, he had some doubts that the Committee could be effective where other bodies had failed, but it should make its contribution.

42. The CHAIRMAN pointed out that if Zaire was to be included in the agenda, the Zairian mission would need to be contacted and the timetable rearranged accordingly.

43. Mr. de GOUTTES supported the proposal to consider Zaire under item 4 at the current session.

44. Mr. ABOUL-NASR said that he would support the inclusion of Zaire or any other State in which the Committee wished to consider, provided that the State concerned was informed and given the opportunity to send a representative; that background information was obtained from the Special Rapporteur and any other United Nations source; that members of the Committee specified their source of information when speaking about the situation in the country concerned, especially when there was a United Nations presence in the area; and that any member proposing a State for consideration prepared a paper as a basis for discussion.

45. The CHAIRMAN said he took it that the Committee endorsed Mr. Wolfrum's proposals.

46. It was so agreed.

Situation in Burundi

47. At the invitation of the Chairman, Ms. Simbizi and Mr. Sabushimske (Burundi) took places at the Committee table.

48. Mr. de GOUTTES (Country Rapporteur) said that the situation in Burundi was causing great concern and could not be dissociated from the alarming situation in the Great Lakes region as a whole, especially in Zaire. Summarizing the Committee's work on Burundi at its forty-ninth session, he said that the Committee had had before it the report of the human rights observer mission in Burundi covering the period 19 April-15 July 1996, which had drawn attention to the human rights violations perpetrated on both sides, the difficulties encountered by the judiciary, and the disturbing situation in prisons and detention centres. The Committee's meeting of 6 August 1996 had been attended by Mr. Ayala Lasso, High Commissioner for Human Rights, who had reported on the work of the Bujumbura office since June 1994, including assistance in reforming the judicial system, human rights education for military personnel and promotion of racial and ethnic tolerance through radio broadcasts, and on the efforts made to strengthen the office and the mission with the request for 35 additional observers and an appeal for assistance by the international community and for a global political solution.

49. The Committee had adopted resolution 1 (49) on Burundi which contained, in essence, three recommendations: the first concerned the functioning of the judicial system, urging the adoption of measures to enable the perpetrators of crimes against humanity, massacres and other acts of violence to be prosecuted and convicted, so that there would be no impunity for them; the second was aimed at enabling refugees and displaced persons to return to their homes, urging the international community to provide the necessary funds and logistical support for that purpose; and the third, of a political nature, concerned the re-establishment of democratic institutions, dialogue between the parties, national reconciliation and bringing an end to the vicious cycle of violence, with an endorsement of the proposal to dispatch a multinational peace force to Burundi in order to provide security assistance and facilitate a comprehensive political dialogue in the country.

50. Since the forty-ninth session of the Committee, the situation in Burundi had become increasingly precarious, and massacres and other acts of violence were common, although it was difficult accurately to judge the scale of the atrocities. The Hutu rebellion had not been quelled and the army continued to take the law into its own hands. Major Buyoya's regime had been accused of implementing a repressive policy against the Hutu populations and launching a mass army recruitment drive among young Tutsis. The Government maintained that it would punish the persons responsible for the massacre in Kobero and begin proceedings against the persons involved in the October 1993 putsch. It said that Tutsi extremists were under control.

51. The economic situation had deteriorated seriously as a result of the assassination of Mr. Ndadaye in October 1993. Development aid was tailing off and the economic sanctions were taking their toll. There had been little progress in terms of ensuring peace and achieving a lasting institutional consensus.

52. The National Assembly, which had been reinstated in September 1996, was still unable to operate normally. Government attempts to launch a "national debate" at the end of January 1997 had come to nothing. Peace negotiations were continuing, although there was some criticism by the Tutsis of

Mr. Julius Nyerere, the former President of Tanzania, who was acting as mediator in the crisis in Burundi, because of his unconditional support for sanctions against Burundi.

53. According to Amnesty International, the situation of refugees remained a cause for concern. It alleged that refugees were being maltreated by the Burundian security forces and that 75,000 refugees from Rwanda had left Burundi to return home as a result.

54. The interim report on the human rights situation in Burundi (A/51/459) prepared by Mr. Paulo Sergio Pinheiro, Special Rapporteur of the Commission on Human Rights, was of particular interest to the Committee in that it provided detailed information on developments in Burundi and made a number of recommendations. According to the report, the human rights situation in Burundi had assumed catastrophic proportions and was characterized by targeted assassinations, arbitrary arrests, forced disappearances, looting, banditry and the destruction of private property. Although both the Hutu and Tutsi communities were to blame for the situation, the State and its armed forces bore a heavy share of responsibility for the atrocities, including massacres, committed against civilians. The Special Rapporteur stressed that the situation in Burundi had deteriorated since the coup d'état of July 1996 carried out by the Tutsi minority. The Special Rapporteur was particularly concerned at the renewed outbreak of massacres since the coup d'état at the fact that representatives of NGOs and humanitarian institutions were also facing serious risks to their lives. The economic sanctions imposed following the Arusha Regional Summit on Burundi in July 1996 were taking their toll on the inhabitants of town and country alike.

55. The Special Rapporteur had made several recommendations. The first was that the Burundi army and security forces, and judicial and education systems should be urgently reformed, and that the example of democratic transition in South Africa be followed. Secondly, the de facto authorities should work with UNHCR to ensure the repatriation of 4,500 refugees who were still in Burundi and the peaceful return of the 200,000 Burundi refugees in Zaire and Tanzania. Thirdly, members of parliament and the National Assembly should be given protection. Fourthly, free and fair elections should be held in the near future. Fifthly, the extrajudicial or summary executions, forced disappearances and other acts of violence and massacres which were occuring throughout the country should be terminated. Sixthly, the persons responsible for such atrocities should be arrested, tried and no longer allowed to enjoy impunity. Seventhly, the practice of indefinite detention without formal charge or conviction should be eliminated and eighthly, NGOs and humanitarian associations in Burundi should once again be able to operate in conditions of security.

56. At the international level, the Special Rapporteur recommended that the international community should provide greater political, financial and logistical support to Burundi. Secondly, an inter-agency emergency plan should be drawn up to assist the most needy and vulnerable population groups in Burundi. Thirdly, pressure on the Burundi authorities should be maintained through economic sanctions, particularly with a view to ensuring a ceasefire between all the interested parties. Fourthly, consideration should be given to the possible establishment of an international peace-keeping force which

would neutralize the army and the rebels, ensure the reorganization of the army and the security forces, and enable a real dialogue on the country's problems to be initiated. Fifthly, there should be a significant increase in the number of human rights observers in Burundi. Sixthly, illegal and uncontrolled movements of arms which threatened peace and stability in the Great Lakes region should be eliminated. Seventhly, the Security Council should set up an international court to prosecute those who had ordered and carried out the assassination of President Ndadaye, the genocide against the Tutsis and the ensuing massacres of the Hutus. Eightly, the international legal assistance project should be supported. And ninthly, a special session of the Commission on Human Rights should be held to examine the most urgent problems in the Great Lakes region. The Committee should consider adopting a new recommendation or decision on the basis of the recommendations made by the Special Rapporteur and fresh information.

57. Ms. SIMBIZI (Burundi) said that she welcomed the opportunity to set the record straight regarding some of the information and reports that had been passed on to the Committee. The problems facing Burundi were rooted in its history and dated back to colonial times and the subsequent period when politicians had used power for personal gain and, in so doing, divided the population. The slant given to the conflict in her country, namely that it was the result of ethnic antagonism, was incorrect. There was no ethnic conflict. The Hutus and the Tutsis were one people with a common language, culture, territory and religion.

58. Her Government was doing all it could to re-establish the democratic process interrupted by the assassination of President Ndadaye in 1993 and to overcome divisions in society. However, that process could not be successful without peace and bread.

59. The Government welcomed the contribution of the international community, the Organization of African Unity Observer Mission in Burundi, the presence of human rights observers, and visits by the United Nations High Commissioner for Human Rights and the United Nations High Commissioner for Refugees. They had been able to see for themselves the progress that had been made and discuss areas of concern.

60. Burundi was facing problems with regard to the administration of justice, the prison system, detention centres and so forth. It had received technical assistance from the Centre for Human Rights and cooperated fully in the provision of assistance to prisoners.

61. The question of refugees and displaced persons was a cause for concern. However, the situation had improved since the Committee's forty-ninth session and publication of the report of the Special Rapporteur on the human rights situation in Burundi (A/51/459). The time had come for a more objective and fresh analysis of the situation.

62. The Government was trying to solve the problem of impunity. Progress had been made in investigations into the 1993 putsch and in judicial proceedings against persons responsible for murders or massacres. At the behest of her Government, foreign lawyers were advising their counterparts in Burundi.

63. Allegations of a deliberate policy of repression targeted at the Hutu population were unfounded. Hutus were not being rounded up and sent to camps. People had been moved from their homes in rebel-held areas simply for their own protection, as the various international missions in the country could verify. The army had apprehended and prosecuted 175 military personnel guilty of human rights violations.

64. The sanctions imposed on Burundi were hitting the most vulnerable sectors of society the hardest. It was unfortunate that the Special Rapporteur had not seen fit to recommend the lifting of the sanctions so that a political solution to the problems facing Burundi could be found. The matters he had raised in his report, including reform of the army, the judicial system and education, were covered in the transitional programme which had been launched by President Buyoya.

65. The question of security for the population at large and representatives of the international community had been dealt with in the most recent report of the United Nations High Commissioner for Refugees. She had described a situation totally unlike the picture painted by the Special Rapporteur.

66. The CHAIRMAN asked if there was any way in which the Committee could help improve the situation in Burundi.

67. Ms. SIMBIZI (Burundi) said that the Committee had an important role in disseminating information, which was why it was so important that it should understand the positive developments that had taken place in Burundi since the reports on which it was basing its analysis had been compiled.

68. In closing, she said that the situation in Burundi had taken a turn for the better, both as far as security was concerned and from the political point of view. President Buyoya had stated his willingness to negotiate with all parties to the conflict, both at home and abroad. Burundi needed support in order to embark upon the peace process and restore democracy.

69. The CHAIRMAN sought guidance from members of the Committee on how they wished to proceed, bearing in mind that the representative of Rwanda was also waiting to appear before the Committee.

70. Mr. ABOUL-NASR said that, in his view, the Committee should postpone its meeting with the delegation of Rwanda until it had finished with Burundi. The representative of Burundi had referred to a report by UNHCR which, she said, corrected some of the information which the Committee had received. He had not seen that report and had difficulty following the discussion without it. The representative of Burundi had also noted that the High Commissioner for Refugees had recently been to Burundi; the Committee needed to know the findings of that visit. Perhaps it should invite a representative of UNHCR to address the Committee.

71. The CHAIRMAN observed that the difficulty which the Committee was currently facing was of its own creation, because it had taken its decisions on the programme of work for the current session at the end of August 1996.

72. Mr. CHIGOVERA noted that, according to the representative of Burundi, an ethnic conflict was not involved. Yet the Committee had received many reports over the years that ethnic issues had, in fact, played a role. He therefore asked the representative of Burundi to explain to the Committee what the cause of the conflict was.

73. Mr. YUTZIS said that the delegation of Burundi should be able to continue providing the Committee with information. He agreed that the Committee should continue hearing the delegation of Burundi and find another time when the delegation of Rwanda could attend. According to the representative of Burundi, certain circles wanted people to believe that the conflict was inter-ethnic in nature, but actually it was not. The Committee would need to devote more time to that question. He would also like to know what the representative of Burundi thought about the proposals made by the Special Rapporteur on Burundi.

74. The CHAIRMAN, speaking in a personal capacity, said that in the future the Committee should consider more systematically what it wanted to achieve by continuing to consider a country under agenda item 4 after it had issued an early warning.

75. Mr. van BOVEN said that the Chairman had made a good point. As Burundi was already on the agenda of the Commission on Human Rights, the Committee should consider what unique contribution it could make. As he saw it, the Committee should bring its past recommendations to the attention of the Burundi delegation and ask how they had been followed up.

76. Mr. WOLFRUM agreed with Mr. Aboul-Nasr on the need to request further information, possibly inviting the representative of UNHCR to speak to the Committee. Clearly, the Committee must also see the UNHCR report to which the representative of Burundi had referred. He endorsed Mr. Chigovera's remarks: the representative of Burundi who had addressed the Committee at an earlier session had also stated that there was no ethnic conflict in Burundi; if UNHCR had a different view, then the Committee would need to reconsider the entire matter. If, as the representative of Burundi asserted, the conflict was a political power struggle, then the Committee was not competent to deal with it. But if the conflict was motivated by ethnic antagonisms, even in part, and the Government denied that fact, then that very denial constituted one of the root causes of the problem.

77. He agreed with Mr. Yutzis on the need to devote more time to the subject. As to Mr. van Boven's comment, taken to its logical extreme it implied that if the Committee considered that its recommendations were not being followed up, it should drop the entire procedure, a view which he did not share. The Committee should concern itself with conflicts which fell within the scope of the Convention.

78. Mr. SHERIFIS said that the situation in Burundi, Rwanda and Zaire was obviously very serious, and the Committee should do everything it could to be of assistance. Representatives of countries always said that conflicts had no ethnic connotations. He was eager to hear the reply of the delegation of Burundi to the question posed by Mr. Chigovera. Did it feel that the Committee could contribute usefully to helping the country and, if so, in what

fashion? If its assistance was requested, the Committee should devote more time and energy to the matter. As he saw it, the Committee should return to the issue, at which time it should invite representatives of UNHCR to appear before it.

79. Mr. DIACONU said that he reserved the right to speak on the subject when it was taken up again. In his view, the Committee must continue its dialogue and draw conclusions, which of course would have to be conveyed to the Government of Burundi. He also agreed on the need to hear more on what the representative of Burundi had to say about the events in that country.

80. Mr. FERRERO COSTA also endorsed Mr. Aboul-Nasr's proposal on finding time to pursue the dialogue. The representative of Burundi might then respond to three questions: whether or not the conflict was of an ethnic nature; what Burundi thought about the views of the Special Rapporteur on Burundi; and what Burundi expected of the Committee.

81. Ms. SIMBIZI (Burundi) said that to answer the main question posed by the Committee, namely whether or not the conflict was ethnic in nature, it was necessary to look back inhistory to the 1930s, when Burundi had still been a Belgian colony. At that time, an educated elite had come into existence and had invented an artificial division between Hutus and Tutsis. Influenced by what had been known as the Rwandan Revolution of 1959, the power struggle within the elite had gradually grown more intense, leading to outbreaks of violence in 1965, 1972, 1988 and, most destructive of all, in 1989, which had seen large-scale massacres. The political elite had used propaganda to instil an atmosphere of mutual fear in the illiterate population, making people think that they had to kill or be killed. But fundamentally, the problem remained political in nature.

82. The CHAIRMAN said that, in view of the late hour, the Committee was obliged to postpone the discussion. The Bureau would meet to consider whether any changes could be made in the Committee's timetable.

The meeting rose at 6.05 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1119th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 5 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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REPORT OF THE CHAIRMAN

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GE.97-15777 (E)

The meeting was called to order at 10.05 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

1. The CHAIRMAN announced that Uganda had requested the Committee to defer the consideration of its report, but without giving a date. The Committee should seek the opinion of Mr. Ahmadu, Special Rapporteur for Uganda, on the matter; he was currently absent. Mr. Wolfrum was drawing up a draft general recommendation on the rights of indigenous peoples and would submit it at the end of the session or at the next session.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Review of the implementation of the Convention in States parties whose reports are excessively overdue

Afghanistan

2. Mr. WOLFRUM (Country Rapporteur) reminded the Committee that Afghanistan had submitted its initial report until 1984. In 1994, the Committee had deferred consideration of the situation in Afghanistan because of the civil war there. Unfortunately, that situation still obtained and was worsening, as numerous sources such as the United States Department of State and non-governmental organizations, especially Amnesty International, had reported. Mr. Choong-Hyun Paik, Special Rapporteur of the Commission on Human Rights for Afghanistan, had said in February 1996 that the de facto absence of a central government in Afghanistan made preventing human rights abuses extremely difficult.

3. The civil war and security problems were preventing human rights organizations from monitoring the situation in the country properly. Nonetheless, the Afghan League of Human Rights and the Cooperation Centre for Afghanistan produced annual and monthly reports respectively on the human rights situation. In July 1996, the Kabul authorities had permitted three representatives of Amnesty International to visit that city, but not to meet Taliban representatives.

4. Sunni and Shi'ite Muslims comprised respectively 84 per cent and 15 per cent of the population of Afghanistan. With regard to ethnic groups, 38 per cent of the population were Pashtuns, 25 per cent Tajiks, 19 per cent Hazaras and 6 per cent Uzbeks. The main languages spoken in the country were Pashtu (35 per cent), Dari (50 per cent) and Turkish. Afghanistan was therefore a racially diverse country. The political situation had simplified. There remained two major warring groups, the Northern Alliance and the Taliban; the latter controlled about 70 per cent of the country, including Kabul. While Mr. Norbert Holl, the United Nations Special Envoy, had been unable to secure a cease-fire agreement, he had made progress towards getting the factions to begin political talks. Other groups of note were the Jamiat-e Islami (Society of Islam), the alliance lead by President Rabbani, and General Abdul Rashid Dostum's Junbesh-e Melli Islami (National Islamic Movement). Other armed groups opposed to the Taliban had formed a new alliance, the Defence Council.

5. The Taliban were a Pashtun-dominated ultra-conservative Islamic movement. They recognized only the validity of Islamic law and did not accept either secular law or binding international human rights norms. The very strict rules that they imposed in their territory had less to do with Islam than with the moral principles prevalent in Pashtun communities.

6. According to Amnesty International, the Taliban had detained some 1,000 civilians in the aftermath of their attack on Kabul. Those prisoners' families feared that their relatives had been sent to clear mines in the Panjshir Valley. Amnesty International had also reported that the Taliban had detained people because of their ethnic origin.

7. The Taliban had set up Islamic courts in areas under their control to hear criminal cases and resolve disputes.

8. In his report of October 1996, the United Nations Special Rapporteur on the situation of human rights in Afghanistan had said that the Shia Unity Party (Hezb-i-Wahdat) in Bamian province had established a judicial committee to deal with political, military and social offences. There were also courts of first and final instance.

9. According to UNHCR, there were still some 18,800 refugees from Tajikistan in Afghanistan and about 1,000 Tajik refugees had been repatriated in 1996. Tajiks living in the Saki camp run by UNHCR had been able to repatriate. Refugees in camps in the Kunduz area, which was controlled by the Defence Council and independent warlords and where the Tajiks actively opposed repatriation, did not have access to repatriation information, nor did UNHCR have access to the camps. UNHCR reported, however, that the opposition's hold on the camps was decreasing.

10. Certain ethnic groups seemed to be the particular targets of ill-treatment by the Taliban. They included Shiites and members of non-Pashtun ethnic minorities. In early September 1995, following the capture of Nimruz province, Taliban had ordered Shiite residents to leave their homes within three days. Those who had refused had been beaten or threatened with death.

11. The Northern Alliance was led by the former communist general, Abdul Rashid Dostum, an ethnic Uzbek allied with a pro-Iranian Shia militia. Little was known about the administration of justice in the zones controlled by the Northern Alliance. Clearly, the situation in Afghanistan was worse than ever and the Committee could not do much about it. He recommended that the Committee should keep a close watch on the situation, but without taking measures that might duplicate action by other United Nations organs. The Committee should revert to the matter in two years' time.

12. Mr. SHERIFIS expressed support for Mr. Wolfrum's recommendation, but suggested that the Committee should review the situation in Afghanistan in six months' time.

13. Mr. ABOUL-NASR suggested that the Afghan Mission in Geneva or New York should be informed of the Committee's intention to continue monitoring the situation in Afghanistan and that, when the Committee resumed its review, the Afghan Government should be invited to send a delegation.

14. He observed that the Taliban comprised both Shiites and Sunnis; they were not an ethnic group, but an extremist religious group. The conflict in Afghanistan was thus a matter of religion, as were conflicts elsewhere in the world. Account should also be taken of the influence of other countries, especially Turkey and Pakistan, on the situation in Afghanistan. It should also be noted that Afghanistan contained training camps for terrorists from countries including Algeria and Egypt and that in the past the CIA had been involved in their activities.

15. The CHAIRMAN proposed that the Committee should contact the Afghan Mission in Geneva or New York. It could notify the Afghan Government of its profound concern at the situation in the country and resume consideration of that situation when circumstances permitted. Consequently, no firm date should be set for that resumption.

16. It was so decided.

17. Mr. de GOUTTES suggested that it should be emphasised that the Islamic courts established by the Taliban handed down degrading or cruel punishments. Were those courts courts of special jurisdiction or could they be assimilated to traditional Islamic courts? What powers did they have? Could they try anybody, even non-Muslims? It was vital to ask the Government those questions.

18. Mr. RECHETOV stressed that the situation in Afghanistan was ominous and explosive. It could set a quarter of the planet ablaze. Investigation of the human rights situation in Afghanistan was long overdue. As things stood, the country's borders were totally uncontrolled and armed men were flooding across them. There was even a risk of a third world war. The situation constituted a real threat to civilization. He stressed that, even though it now seemed to have distanced itself from them, the Taliban were supported by a great Power.

19. Mr. GARVALOV agreed that the Taliban were not organized on an ethnic basis.

20. Mr. ABOUL-NASR subscribed to Mr. Rechetov's view that the Taliban enjoyed foreign support. He differed with Mr. de Gouttes concerning Islamic courts: such courts were not reprehensible in themselves and they existed in countries besides Afghanistan. The issue was what measures those courts applied and whether they served the interests of some minorities to the detriment of others. To make a general statement on Islamic courts would, in his view, be inappropriate.

21. Mr. RECHETOV remarked that, in situations of instability, such as in Chechnya, the introduction of Islamic law and courts could help to restore order.

22. The CHAIRMAN said that Mr. Wolfrum would prepare a draft recommendation concerning the situation in Afghanistan that took account of the comments made in the Committee.

Bahamas

23. Mr. LECHUGA HEVIA (Country Rapporteur) said that the Bahamas had not submitted any report since its third periodic report (CERD/C/88/Add.2), which dated from 1982. In that document, the country said that the former "institutionalized" racism had disappeared and that the population was firmly opposed to racial discrimination in whatever form. The Government had expressed the view that the Constitution guaranteed the implementation of the Convention and that there was therefore no need to enact further legislative or administrative measures to that end. It had also said that it did not intend to amend the Constitution, even though the definition of racial discrimination in it was narrower than that in the Convention. No legislation had been enacted to provide for redress before the courts in connection with the provisions of the Convention. The Constitution guaranteed everyone, whatever their race or origin, the exercise of the fundamental rights and freedoms.

24. The Committee had asked for more information about education on racial measures and about measures on behalf of the most disadvantaged members of the population. It had also requested more information concerning the implementation of article 7 of the Convention in the fields of teaching, culture and information. In response to the numerous inquiries it had made since 1984, the Committee had been told that a report would be submitted in November 1996; it had yet to arrive. He felt that the Bahamian Government should again be offered technical assistance from the Centre for Human Rights in drafting that report.

25. The proposal to submit a report in November 1996 had emanated from the Permanent Mission of the Bahamas in New York.

26. The CHAIRMAN suggested that, in drafting the Committee's conclusions, the Special Rapporteur should draw on the comments concerning countries in the same situation as the Bahamas that were to be found in the Committee's latest report to the General Assembly (A/51/18, paras. 427-459).

Dominican Republic

27. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) reminded the Committee that the Dominican Republic had, in 1988, submitted its initial report and its first to third periodic reports in a single document (CERD/C/165/Add.1). It had stated in that regard that racial discrimination was prohibited by article 100 of the Constitution and was non-existent in the country. The Dominican population comprised Blacks, Indians, Whites and a large proportion of people of mixed race. The country had never replied to the questions the Committee had asked when it had examined the reports in 1990 (A/45/18, paras. 230-235). How did it treat the mainly Haitian Blacks who were legally

or illegally employed in the sugar cane plantations (para. 232)? How were pupils from the various ethnic groups treated in educational establishments? How did the overall socio-economic situation of Blacks and Indians compare with that of Whites, who apparently constituted 20 per cent of the population?

28. Additional information was needed concerning articles 5, 6 and 7 of the Convention.

29. All States parties to the Convention had undertaken to take legislative measures pursuant to article 4, whatever their domestic law. He trusted that the Dominican Republic would submit a new, detailed report to the Committee and offered the technical assistance of the Centre for Human Rights to that end.

REPORT OF THE CHAIRMAN (agenda item 2)

30. The CHAIRMAN said, with regard to paragraph 1 of his report (document without a symbol, in English only), that he believed a draft resolution was being prepared concerning the recommendation made at the seventh meeting of persons chairing human rights treaty bodies (A/51/488, para. 29). Accordingly, he proposed that consideration of the matter should be postponed, subject to its resumption at the earliest possible moment under the procedure for rapid inclusion of an item in the Committee's agenda.

31. It was so decided.

32. With the support of Mr. Diaconu, he proposed that consideration of the recommendation to incorporate a gender perspective into the reporting guidelines (report of the Chairman, para. 2) should be postponed to the Committee's fifty-first session, when the final document of the round-table on women's health to which the chairpersons of the treaty bodies had been invited would be available.

33. It was so decided.

34. Replying to Mr. Aboul-Nasr, he said that the question of the Committee's representation at the round-table had been discussed at the forty-ninth session, but lack of time had prevented the making of a recommendation (report of the Chairman, para. 4).

35. He invited the members of the Committee to comment on the suggestion that treaty bodies might ask the Sub-Commission on Prevention of Discrimination and Protection of Minorities to commission studies on topics of interest to them (report of the Chairman, para. 3).

36. Replying to requests for clarification from Mr. Sherifis, Mr. van BOVEN said that it had been thought wise that the Sub-Commission should undertake studies potentially of use to other United Nations bodies. It had therefore been suggested that those bodies should propose to the Sub-Commission the making of studies on subjects of particular interest to them, such as, in the case of the Committee, affirmative action.

37. Mr. SHERIFIS asked, with regard to paragraph 3 of the Chairman's report, whether the Committee was competent to commission studies and whether its members could participate in studies of relevance to its work. In his view, worldwide studies on various aspects of the refugee situation would be extremely useful to the Committee.

38. Mr. ABOUL-NASR said no report was needed on the return of refugees' property, since the relevant right was now duly recognized. Similarly, since refugees' rights to return and compensation were firmly established, no fresh studies were required.

39. The CHAIRMAN remarked that the question of making studies had initially been raised by a member of the Committee. In his view, it might be possible to make studies, but the requisite funds were not available.

40. Mr. YUTZIS said that, in view of the Committee's role of assessment, new, targeted studies in the Committee's field of work would be useful not only to it, but also to other bodies. They would require relatively modest sums that were undoubtedly available. They should, however, be the subject of consensus among the members of the Committee and their scope should be carefully defined.

41. Mr. DIACONU explained that, unlike the Sub-Commission, the Committee was not competent to make studies or to undertake initiatives entailing expenditure. It could, however, request the Sub-Commission to draw up documents of use to it. Insofar as such matters were relevant to the Committee's mandate, the documents might concern, inter alia, palliative action, the rights of non-citizens or refugees. Perhaps the members of the Committee could raise the matter at the next meeting of chairpersons; the latter could then make a recommendation to the Sub-Commission.

42. Mr. GARVALOV expressed support for the idea of commissioning studies, providing they were not merely informative, but also had a specific purpose. Studies might, for example, be undertaken on the possible use of early warning procedures for the submission to United Nations decision-making bodies of the views and suggestions of treaty bodies, such as the Committee, on matters within their purview.

43. He also thought that the Committee should look at the information and proposals of relevance to its own work that had emerged from international activities such as the seminar on racial discrimination held at Geneva in September 1996. Under a joint decision of the Committee and the Sub-Commission, he and Mrs. Sadiq Ali were contributing to the drafting of a joint working paper from the two bodies on article 7 of the Convention. An advance version would be submitted to the Committee in the near future.

44. Mr. WOLFRUM drew the Committee's attention to the question of the non-implementation of international human rights instruments by newly emergent States. Many new States were very slow in submitting their periodic reports or failed to take measures to protect their citizens' fundamental rights. New

States ignored the principle that the dissolution of a State should not terminate the application of international human rights instruments. Studies on the policy of such States could be of use in providing the Committee with a basis for taking a stand on the matter and devising appropriate measures.

45. Mr. FERRERO COSTA said that studies were desirable on many questions, including the reservations entered by some States parties to the Convention. That was particularly true with regard to recent adherents to the Convention, especially the United States of America, which had entered reservations that were as numerous as they were questionable, to the point of challenging the validity of certain articles. Acceptance of those reservations would leave the Convention void of substance vis-à-vis certain States and would prevent its universal application. The Committee should study in depth the question of the validity of all aspects of the human rights instruments vis-à-vis all States parties, with a view to appropriate action.

46. The CHAIRMAN advised Mr. Ferrero Costa that he could find answers to his concerns in two reports by the International Commission of Jurists on reservations.

47. Mr. de GOUTTES said that he viewed as being of the utmost importance the fact that some researchers were again pondering the definition of racism and pointing out that international instruments, including the Convention, defined racial discrimination but not the concept of race. To their mind, that concept was scientifically wrong and should therefore be abolished. According to that school of thought, which had representatives within the United Nations, texts containing the term "race" should be amended. While that was still a minority view, it was gaining ground and should be of concern, above all to the Committee, which should look into the issue and take a stand on it.

48. Mr. GARVALOV said that the problem alluded to by Mr. de Gouttes was indeed important. The school of thought in question was supported by a European State that was not a party to the Convention.

49. Mr. YUTZIS said he had been struck by the fact that States parties' behaviour vis-à-vis the Committee was influenced by a certain theoretical confusion concerning racial discrimination. Many States asserted in their periodic reports that they were free from racial discrimination and then held to that assertion in the face of the incredulity of members of the Committee. The Committee should at least try to clarify the matter. Clarification was also required with regard to article 4 in order to supplement the explanations that the Committee, when considering periodic reports, had constantly to repeat to representatives of States which established rankings for the fundamental rights. In view of the media's considerable and dominant influence on social and racial relations in modern societies, clarification was also necessary with regard to the provisions of article 7 concerning freedom of the press.

50. Mr. RECHETOV, referring to the reservations entered by States such as the United States of America, France and the United Kingdom to important provisions of the Convention, said that the primacy of the Convention should

be firmly asserted and recognized. He favoured the taking of the decisions that derived from that principle against States parties that unduly entered reservations and against parties, such as the new Baltic States, that were too slow to give practical effect to their obligations under the Convention. He therefore warmly supported Mr. Wolfrum's proposal.

51. The CHAIRMAN said that Mr. Rechetov's first point and the proposals made by Mr. de Gouttes and Mr. Yutzis could be examined under agenda item 10, "Third Decade to Combat Racism and Racial Discrimination". They could also be the subject of studies when the Sub-Commission so decided. He drew Mr. Yutzis' attention to the relevant section of General Assembly resolution A/51/617 concerning the Third Decade, particularly paragraph 10 concerning the use of the Internet for the dissemination of racist propaganda.

52. Regarding studies on States parties' reservations, he suggested that the Committee's secretariat should draft for the secretariat of the Sub-Commission a note listing the questions on which the Committee would like studies to be made. Members of the Committee who wished to have studies made might also consider submitting requests to that effect to bodies other than the Sub-Commission.

53. Mr. DIACONU said that, when participating in the round-table on women's health, he had tried to describe the Committee's activities by emphasizing the specificity of its approach and of the Convention and by explaining that the Committee only dealt with questions of discrimination against women when they also involved an element of racial or ethnic discrimination. That position had not, however, been understood and the Committee had been urged to take into account the problem of discrimination on grounds of sex. In his view, it was very important for the Committee to defend its own identity if it was not to founder in the ocean of human rights.

54. Mr. ABOUL-NASR asked by whom and how decisions were reached on the representation of the Committee in the workshops, symposiums and other meetings it was invited to attend. Unlike their European and Latin American counterparts - the latter of whom could, in fact, be considered as being, culturally speaking, Europeans - the members who came from Africa or Asia, areas under-represented in the Committee, contrary to article 8 of the Convention, were very seldom asked to take part in such events on the Committee's behalf. That was despite the fact that they came from continents containing a huge proportion of humanity and represented different cultures and legal systems that had to be taken into account. The comment made by Mr. de Gouttes concerning Islamic courts, for example, attested a lack of understanding of the legal system of Muslim countries. The fact that the Committee preferred to deal with questions such as sexual inequality rather than the disastrous consequences for Iraqi children of the sanctions imposed on their country was further evidence of the imbalance.

55. The CHAIRMAN recognized that there was a problem regarding representation of the Committee. He would say later by whom and how the decisions concerning invitations were taken. With respect to the round-table in question, he himself had attended in his capacity as Chairman. The Committee had also nominated Mr. Valencia Rodriguez, who, in the event, had been unable to go and had been replaced by Mr. Diaconu.

56. Mr. WOLFRUM said he firmly believed that the variety that existed within the Committee with regard not only to its members' regional origins, but also to their professional backgrounds and the cultural and legal systems they represented, was one of its greatest assets and should also be reflected in the choice of the Committee's representatives. Concerning questions of discrimination against women, he entirely agreed with Mr. Diaconu that they did not come within the Committee's mandate. That, of course, did not prevent the Committee from examining cases of individual discrimination against women on ethnic grounds, nor did it need any encouragement to do so.

57. Mr. de GOUTTES said he, too, was convinced that pluralism was an essential feature of the Committee. Concerning Islamic courts, he wished to clear up a misunderstanding: he had had no intention of questioning the principle of those institutions, for which he had the greatest respect. He merely wondered whether the Taliban did not use Islamic courts for extremist purposes.

58. Mr. FERRERO COSTA subscribed wholeheartedly to the remarks made by Mr. Aboul-Nasr. All the members of the Committee should be equally able to represent it and the current practice, which was certainly less the outcome of any ill intent than of practical considerations, should be changed. The Committee should take up questions relevant to women and questions relevant to children or persons with disabilities only when they also involved racial discrimination.

59. Mr. van BOVEN remarked that the position prevailing in the Committee on the consideration of questions of sexual inequality was perhaps attributable to the fact that the Committee comprises 16 men and only 2 women. The fact that there was a convention on the elimination of discrimination against women should not preclude the Committee from examining all cases of racial discrimination that particularly affected women, for women could fall victims to discrimination both because of their race and because of their sex. The Committee must not overlook that.

60. Mr. RECHETOV said that Mr. Aboul-Nasr had raised a very important question having to do with the West's long-standing ideological, cultural and political hegemony. The members of the Committee were all absolutely equal and equally competent. It was within its own ranks that the Committee must first seek to root out racial discrimination. The end of paragraph 12 of the report of the Chairman should be reworded: it put the members of the Committee who were ambassadors in a distinct category, as if their time were limited and academics were completely free to work for the Committee between sessions. He proposed that a list should be made of all the seminars, international conferences, round-tables and the like, other than the missions incumbent on the Chairman, in which the Committee was invited to participate and that those prestige assignments should be shared out as fairly as possible between all the members.

61. Mr. GARVALOV supported the comments made by Mr. Aboul-Nasr. Although he himself had been born in a European country, that country's geographical location, political history and economy were such that he was not really considered a European. Even his diplomatic passport did not guarantee him access to all west European countries.

62. The CHAIRMAN, continuing the introduction of his report, said that paragraph 6 was informative and that, pursuant to paragraph 7, the Bureau would, if there were no objection, send out suitable replies to letters received by the Committee.

63. The report of the Chairman was adopted.

64. The CHAIRMAN announced that the Committee had completed the consideration of item 2 of its agenda.

The meeting rose at 1 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1190th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 5 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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GE.97-15781 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Seventh periodic report of Guatemala (CERD/C/292/Add.1; HRI/CORE/1/Add.47)

1. At the invitation of the Chairman, the members of the Guatemalan delegation took seats at the Committee table.

2. Mr. URRUELA PRADO (Guatemala) said he was grateful for the opportunity to continue his Government's constructive working relationship with the Committee. That the delegation included a member of ministerial rank was evidence of his Government's commitment to complying with its international obligations in the field of human rights. He reiterated its invitation to the Committee's Country Rapporteur for Guatemala to visit the country to assist the Government in implementing the provisions of the Convention.

3. Mrs. ALTOLAGUIRRE (Guatemala) said that the Government was complying with the Committee's request at its forty-sixth session in submitting an updated report. Referring to the statement made by Mr. Alvaro Arzú Irigoyen, the President of Guatemala, on taking office in January 1996, in which he had stressed, inter alia, the diversity and plurality of Guatemalan society and had called for justice and equity in economic, social and inter-ethnic relations as the foundation for full participatory democracy based on the rule of law, she said that the Government was forging ahead with the decisions and measures needed to achieve that goal.

4. The new Government had vigorously pursued its primary goal of concluding the Agreement on a Firm and Lasting Peace. Her delegation came with good news. The signing of the Peace Agreement on 29 December 1996 had put an end to three decades of armed conflict and a painful period in the history of the Guatemalan nation. The task ahead was to preserve and consolidate peace and, with the concerted efforts of all Guatemalans, to implement the comprehensive social and political agenda, setting the stage for future development. It should be remembered that, in addition to prevailing domestic political, economic and social conditions, one of the main causes of the conflict had been the effects of the cold war following the Cuban revolution, with the emergence of irregular armed movements and violence as a path to power. With the end of the cold war, the road to peace had been opened. The Agreement on a Firm and Lasting Peace provided an agenda for national consensus, reconciliation and sustained governance, affording promising prospects for democracy in Guatemala through new institutions and the participation of all sectors of the population, including those that had traditionally been marginalized. The Government was committed to constructing a democratic, multi-ethnic, pluricultural and multilingual society based on social justice. The Commission on Human Rights had recognized the broadened political scope for public participation in that process.

5. She outlined the various agreements which had been reached in the course of the lengthy negotiation process since the conclusion, with the United Nations as moderator, of the Framework Agreement for the Resumption of the Negotiating Process between the Government of Guatemala and the Guatemalan

National Revolutionary Unity Movement (URNG) in January 1994. They included the Comprehensive Agreement on Human Rights (1994), the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict (1994), the Agreement on the establishment of the Commission to clarify past human rights violations and acts of violence (1994), the Agreement on Identity and Rights of Indigenous Peoples (1995), the Agreement on Social and Economic Aspects and the Agrarian Situation (1996), the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society (1996), and, finally in December 1996, the agreement on constitutional reforms and the electoral regime and the agreement on the basis for the integration of URNG into the political life of the country, culminating in the Agreement on a Firm and Lasting Peace. With the exception of the Comprehensive Agreement on Human Rights, which had entered into force immediately, the other agreements had come into force along with the Agreement on a Firm and Lasting Peace.

6. Turning to the seventh periodic report, she drew attention to some recent developments which had not been included in that report or in the further updating report which had been submitted to the Committee on the previous day. On 19 March 1996, the Congress of the Republic had approved ILO Convention No. 169 concerning Indigenous and Tribal People in Independent Countries and had deposited the instrument of ratification in May. With its incorporation into domestic law and the implementation of the Agreement on Identity and Rights of Indigenous Peoples, racial and cultural pluralism based on equity were becoming a reality. The Mayan population could now enjoy benefits and guarantees in regard to property, working conditions, vocational training, crafts and rural industries, health, social security, education, the administration of justice, the environment and natural resources. On 13 February 1997, a multilingual Centre for the Administration of Justice had been set up in the Ixil Triangle under the sponsorship of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA) and the Swedish Government.

7. An example of measures being taken to implement the Government's policy of eliminating racial discrimination was the signing, in February 1997, of an agreement between the State of Guatemala, represented by the Presidential Commission for Coordinating Executive Policy in the field of Human Rights (COPREDEH), and the community of Colotenango, which had filed a complaint against the State following an attack by members of the Civilian Self-Defence Patrols (PACs) against community demonstrators, leaving one dead and two wounded. Under the agreement, the State was to provide direct compensation for the victims and undertake 15 building projects in various villages. The Government reiterated its commitment to the international community to reject any form of racial discrimination, consolidating that commitment through the implementation of the Agreement on Identity and Rights of Indigenous Peoples.

8. The Congressional Commission on Legislation and Constitutional Issues had given a favourable opinion on the bill relating to the inclusion of the offence of racial discrimination in the Penal Code. The bill had been submitted to Congress, but was still being studied and debated at the request of the Commission on Indigenous Affairs. COPREDEH had reiterated to Congress the need to incorporate the offence in the Penal Code in compliance with the

measures prescribed in the Convention. The Broadcasting Act included a provision prohibiting broadcasts constituting an incitement to racial discrimination.

9. Workshops held in 1996 under the auspices of the Guatemalan Fund for Indigenous Development (FODIGUA) had produced a document, currently being printed for submission to Congress, proposing amendments to the section of article 70 of the Constitution concerning indigenous communities. Various State bodies, headed by FODIGUA, were ensuring, with the assistance of the Government of Sweden and the United Nations Development Programme (UNDP), that the provisions of the Agreement on Identity and Rights of Indigenous Peoples were made known to the general public. The decree establishing Voluntary Civil Defence Committees (CVDCs) had been repealed and by December 1996 all CVDCs had been demobilized and disbanded.

10. Between 1986 and 31 December 1996, a total of 32,953 refugees had returned to Guatemala from neighbouring countries, particularly Mexico, 4,026 of them in 1996. Assistance had so far been provided to 29 returnee families in 1997. With regard to the Communities in Resistance (CPRs), the Government had provided assistance to 21 families from the Sierra CPR, department of Quiché, for resettlement in Alta Verapaz. Further assistance was being provided for the resettlement of returnees and displaced persons in other regions. The financing of projects by FODIGUA had nearly quadrupled in 1996, with a minimum of 20 million quetzales set aside in 1997 for 400 projects; a further 75 million quetzales in international funding was needed to extend the assistance to all communities. Resolutions adopted by the Office of the Human Rights Procurator in its 1996 report invoked the Convention, which was a positive sign of the steps being taken to safeguard the rights covered by the Convention in Guatemala.

11. Further measures were being taken to implement bilingual intercultural education policies and strategies, with 5,960 teachers working with 330,000 indigenous children in 1,277 schools in 12 departments. Fourteen of the 21 languages spoken in Guatemala in addition to Spanish were taught. Those figures represented only 12 per cent of needs nationwide. An intercultural education project, beginning in 1997 and consisting in heightening awareness of Mayan culture among Spanish-speaking teachers, was planned in the department of San Marcos. Five hundred thousand primary school textbooks in the four basic Mayan languages were being prepared for distribution to 1,277 schools. All those measures testified to the Government's efforts in the previous year to promote the multiracial, pluricultural development of society, although it was recognized that much remained to be done.

12. On 3 March 1997, the final cease-fire had taken effect and United Nations verification had begun. As of the end of February, the United Nations had been given all the information needed for the demobilization process. The Guatemalan army units designated in the cease-fire agreement and the members of the URNG would be moving to the designated assembly points in March 1997. The gradual demobilization and disarmament process was expected to culminate in the final demobilization of URNG by 1 May 1997 at the latest.

13. Mr. YUTZIS (Country Rapporteur) said that the Committee appreciated the efforts being made to improve the situation of all Guatemalans after the long period of armed conflict. He would begin by highlighting some of the main points of the sixth report of Mr. David Stephen, the Director of MINUGUA, to the United Nations General Assembly, as summarized by the Director in a public statement on 26 February 1997. Positive developments referred to in the report included the decline in the number of complaints of human rights violations, the process of demobilization and disarmament of the CVDCs, a greater willingness to bring to account members of the armed forces who had committed unlawful acts, and encouraging developments in the Office of the Public Prosecutor and COPREDEH.

14. Guatemala's transitional period offered an historic opportunity to improve conditions in the country through the establishment of the rule of law and peaceful coexistence. However, the emergence of a new society was a painful process which required a change in attitudes, values and social behaviour.

15. The Agreement on a Firm and Lasting Peace and other agreements, including that on the identity and rights of indigenous peoples, provided a sound basis for future development. The role of MINUGUA was also of vital importance. However, greater attention needed to be paid to amending legislation that was inherently discriminatory. Despite the progress made, there were still areas of concern, not least the continuing climate of violence and intimidation and a lack of respect for human life. State officials were not blameless in that regard and the Government needed to step up efforts to ensure that human rights violations did not go unpunished.

16. Although the report of Mrs. Monica Pinto, the Independent Expert (E/CN.4/1997/90), indicated that the number of human rights violations and cases of torture and cruel or degrading treatment or punishment was decreasing, the number of complaints remained alarmingly high. He invited the delegation to comment on the particular cases that had been brought to his attention. For example, it had been alleged that, on 5 October 1995, military personnel had used violence against civilian returnees in Xamán. On 30 May 1996, the judge of the Criminal Court of First Instance in Cobán had freed 8 of the 25 soldiers responsible for the events of 5 October. Although he had been subsequently taken off the case, the eight soldiers were still free. On 15 February 1996, Miguel Us Mejía and Lucía Tiu Tum had been killed in Santa Lucía La Reforma. Apparently, investigations into the killings were being delayed. Other cases included the assault against Julio Ixmatá Tziquín; the abduction of Samuel Merida, attacks on the headquarters of the Peasant Unity Committee; the attack on Arnoldo Xi and his subsequent disappearance; the arrest of and assault on leaders of the National Indigenous and Peasant Coordinating Committee (CONIC); the racial insults directed at Juana Velásquez García, who had subsequently been arbitrarily detained; the forced sterilization of a number of indigenous settlers and their wives; and events in San Marcos and Sololá which had required the intervention of MINUGUA.

17. More information was needed on the disbanding of military commissions and committees, including the CDVCs and the PACs. It appeared that many members of those bodies were not aware that they could stand down or feared

reprisals if they left. It was unfortunate that as such bodies were being disbanded, other groups such as "Jaguar Justiciero" and groups linked to the army were emerging.

18. Information available indicated that there was still considerable tension concerning the question of land and access to water. Problems were compounded by the existence of numerous refugees, returnees, displaced persons and CPRs. Small landowners, who accounted for 89 per cent of the population, occupied only about 16.4 per cent of cultivable land, which meant that many peasants, including Indians, were deprived of land they could work. Of equal concern was the advent of a clandestine and militant organization, the Emerging Committee for the Defence of Private Property.

19. There was some confusion as to the actual size of the indigenous population; that matter should be clarified. Information should also be provided on the use of minority languages, as sources available indicated that there were problems in that area. The establishment of a Secretariat for Indigenous Affairs subordinate to the Office of the Attorney-General was commendable; the Committee would welcome additional information on its activities.

20. It also seemed that the administration of justice, particularly as it affected the more marginalized sectors of the population, needed to be improved; sources indicated a certain discriminatory attitude among many judges. It was of great concern that there was a growing tendency for people to take the law into their own hands and administer punishment without recourse to the courts, which had, in some cases, led to persons being lynched.

21. The authorities should make a concerted effort to discover the whereabouts of clandestine graves and, in particular, clarify whether missing persons were indeed dead or had disappeared. There also seemed to be a problem in that investigations into the events leading to the deaths of many people and court proceedings were being hampered in some cases by the requirement that a survivor of the incident, not just a witness, should testify to what had happened. It was unfortunate that the death penalty was being extended to cover additional crimes, including kidnapping.

22. With regard to article 7, he noted that there had been many threats against journalists and even several murders. In any transition period, the media were perhaps the only opposition which existed, but if he had to choose between a situation in which there was no information whatsoever or one in which it was excessive or even distorted, he would prefer the latter. Freedom of the press was essential to rebuilding democracy.

23. In closing, he said that there had been many useful initiatives concerning displaced persons, refugees and returnees, but unfortunately resources were lacking to help such persons overcome their plight and recover their historic identity.

24. Mr. DIACONU, commending the delegation of Guatemala for its latest report, which had been submitted less than two years after its previous one despite the enormous problems which that country was facing, said that he would like to raise a number of points.

25. Notwithstanding the requirements under article 4 (a) of the Convention, he had found no specific reference in the seventh report to legislation prohibiting racial or ethnic discrimination.

26. Paragraph 27 of the report spoke of adding the offence of racial and ethnic discrimination to the Penal Code. He did not know the content of the relevant bill and asked whether it would be sufficient to cover all areas concerned.

27. Paragraph 29 stated that the legislative measures currently being considered would contribute substantially to the more effective implementation of the principles laid down in article 4 of the Convention. Why would they only do so "substantially"? That sounded like a limitation.

28. Concerning the administration of justice, he was surprised that the report contained no information on judicial proceedings initiated in the country's courts for acts of discrimination. According to paragraph 34, the executive staff of the Office of the Attorney-General had been encouraged to learn two Mayan languages, yet the Guatemalan Constitution had been translated into four Mayan languages. Should not the executive staff be required to learn all four? Also, why were the executive staff alone concerned? In his view, prosecutors and judges must also learn all those languages.

29. There was a need for a far-reaching educational programme, the country's illiteracy rate being high, especially among the Mayan population. Every effort must be made to promote bilingual education, which should begin with a Mayan language and add Spanish later on.

30. The report contained few economic and social data on the various sectors of the population that would help the Committee assess the situation with regard to racial discrimination and the extent to which citizens enjoyed the rights set out under article 5 of the Convention. It was not clear to him what the Government was doing to eliminate such discrimination.

31. Mr. SHERIFIS said that he sought clarification in a few specific areas. Noting that many thousands of citizens had been repatriated, most of them Indians, and that funds had been made available to assist them, he assumed that in the meantime other people had moved into their homes and had begun to use their lands. He asked how Guatemala was dealing with that problem and what the legal situation was.

32. As he understood paragraph 26 of the report, Guatemala was in the process of initiating the procedure for making the declaration under article 14 of the Convention. Could the delegation of Guatemala confirm that understanding?

33. Welcoming the initiatives described in paragraph 35, he nevertheless drew attention to the Committee's recommendation aimed at ensuring full compliance with article 7 of the Convention.

34. Mr. de GOUTTES, thanking the delegation of Guatemala for the wealth of information which it had provided in its seventh report and in its presentation, said that he still had a number of brief questions.

35. Concerning paragraph 26, the delegation had stated that the bill referred to therein, which would incorporate the provisions of the Convention in the Penal Code, had been submitted to Congress. He would like to know whether in the bill provision had been made for all acts of racism and racial discrimination covered by article 4 of the Convention, including the prohibition of organizations which promoted and incited racial and ethnic discrimination and disseminated racist propaganda. Also with regard to paragraph 26, he inquired whether the Government of Guatemala had, as promised, completed the proceedings for recognition of the individual communications procedure under article 14 of the Convention.

36. In connection with paragraph 32, it was hard to imagine that the Government of Guatemala had not had a single official report of any judicial proceedings initiated for acts of discrimination. He reminded the delegation that at its previous session the Committee had not accepted the statement that no form of racial discrimination was practised against persons, groups of persons or institutions, had considered that de facto racial discrimination persisted against the indigenous communities representing the majority of the Guatemalan people, and had expressed profound concern at widespread discrimination affecting the indigenous communities and excluding them from the enjoyment of their civil, political, economic, social and cultural rights (A/50/18, paras. 304-305).

37. Concerning the continued existence of self-defence groups, to which Mr. Yutzis had made reference, he observed that according to the latest report of Amnesty International, civil defence patrols waging "social-cleansing campaigns" to fight urban crime had forcibly enrolled peasants from the indigenous population.

38. In reality, the absence of complaints, prosecution or sentencing suggested ignorance of their rights on the part of members of the indigenous population, a lack of confidence in the police and the justice system, and perhaps also an indifference in the police force and the courts towards complaints of ethnic and racial discrimination. He wondered whether that was not an example of impunity. In that connection, he would like to know the findings of the Truth Commission, which had been established to cast light on human rights violations in Guatemala.

39. Drawing attention to the Committee's General Recommendation XIII, he said that the training of law enforcement officials in human rights was more important than ever in order to put an end to violence in the police and armed forces. What efforts were being made to heighten awareness of problems of ethnic and racial discrimination within the police, the military, and prison staff and among judges?

40. Lastly, he would like to know what was being done to inform the public about those issues with a view to promoting inter-ethnic understanding, which was essential in the current context. Also, had any effort been made to disseminate Guatemala's report and the Committee's concluding observations?

41. Mr. van BOVEN said that it was essential for members of the indigenous population to have access to effective protection mechanisms and remedies when they had been victims of violence. There could be no genuine reconciliation in Guatemala as long as impunity prevailed. He inquired what was Guatemala's policy towards combating that phenomenon.

42. Noting with concern that the Government of Guatemala had not followed up all the recommendations and concluding observations made by the Committee in its 1995 report, he hoped that greater attention would be devoted to such follow-up in the future.

43. While welcoming Guatemala's ratification of ILO Convention No. 169, he expressed concern that there were still a number of recommendations made by the Committee on 17 March 1995 which had not been pursued. In that context, it would be useful to have the exact wording of the proposed amendment of the Penal Code so that the Committee could assess to what extent the relevant bill fulfilled the requirements of article 4 of the Convention. In addition, the report did not contain the information requested in paragraph 315 of document A/50/18 (concluding observations on Guatemala) on cases of complaints of racial discrimination.

44. He reiterated the importance of reviewing and improving the training of law enforcement officials and joined his colleagues in urging the Guatemalan Government to make the declaration called for under article 14, paragraph 1, of the Convention. He took the opportunity to repeat the appeal made in paragraph 319 of document A/50/18 for the State party to ensure the dissemination of the country report and other official documents relating to the consideration of its report.

45. Finally, he urged Guatemala to add its name to the list of States parties ratifying the amendment to article 8, paragraph 6, of the Convention, which would allocate a portion of the Committee's expenses to the regular budget of the United Nations.

46. Mr. GARVALOV acknowledged that Guatemala had embarked upon a difficult path towards progress, and wished the Government every success in the achievement of its goals, which would ultimately benefit the people of Guatemala. When the Committee had discussed the previous report of Guatemala in 1995, there had been an overwhelming impression that the Government did not admit the existence of racial discrimination. The present report, by contrast, was straightforward and frank; he therefore believed the Committee would not maintain its view that Guatemala denied the existence of racial discrimination.

47. Nevertheless, he wished to raise some practical points which needed clarification. Whereas paragraph 11 of the seventh report suggested the existence of discrimination in a "veiled" form, several sources, including United Nations bodies, had confirmed that the indigenous inhabitants of

Guatemala were largely outside the political, social, economic and cultural mainstream and suffered human rights abuses. He wished to know the Guatemalan Government's assessment of the effectiveness of steps taken to put an end to such abuses, and asked for clarification of the "certain cases", mentioned in paragraph 17, and the restrictions applied in those cases. Clarification was also required in the case of the first initiative mentioned under paragraph 31. Were there in fact Guatemalans who practised racial discrimination? And were there penalties for acts of discrimination? With regard to paragraph 35, he was curious to know the reaction of indigenous people to the measures being implemented in the fields of education, culture and information.

48. He joined his colleagues in expressing disappointment at the information provided on articles 4 and 6, but welcomed the adoption of measures under article 7.

49. Mr. CHIGOVERA inquired about the status of the bill to which Mr. van Boven had referred. He wondered whether that bill took into account the aspects of the State party's obligation outlined under article 4 (a), (b) and (c). If the bill was still under discussion and those aspects had not been incorporated in the text, he urged the Government to review it before it was enacted into law.

50. He also wondered why there had been no official reports of judicial proceedings for acts of discrimination, as stated in paragraph 32 of the report, even though paragraph 9 explicitly acknowledged the existence of racial discrimination. Why had the courts or judicial processes not been used in Guatemala to protect victims of such discrimination?

51. Mr. VALENCIA RODRIGUEZ considered that the situation in Guatemala should be viewed as a product of its diverse ethnic components and the size of the indigenous population in relation to the total population. The issue of racial discrimination could not be separated from the general question of human rights, which had been further compounded in Guatemala by the lengthy armed struggle. The path had been cleared for the full implementation of the Convention and other human rights standards. While the Committee did not expect immediate results, Guatemala had shown signs of progress through its compliance with important domestic and international legal instruments.

52. The Committee urged the Government of Guatemala to keep it informed of the results achieved through the measures it had taken, and to tackle the remaining urgent issues impeding national stability. For example, it was vital to end the prevailing climate of violence and punish perpetrators of human rights abuses through a system of impartial investigations and accelerated judicial procedures. In that regard, the re-establishment of respect for, and confidence in, the judiciary was of great importance.

53. It was also essential for the Government to actively promote respect for the rights covered by article 5, particularly for the indigenous populations. Land redistribution, particularly to indigenous peoples, was the only means of ensuring economic stability for that previously unprotected group. Education, tolerance and harmony should be increased for all Guatemalans, bearing in mind

the country's high level of illiteracy. He urged the Government to intensify its efforts to provide opportunities for fuller participation of the people, regardless of ethnic origin, in national life.

54. Mr. FERRERO COSTA said the Committee could regard the seventh periodic report of Guatemala in a positive light because the country had clearly entered an important transitional phase after a difficult past. There had been three outstanding developments for Guatemala in recent times, namely, the signing of the peace agreements, the signing of the Agreement on Identity and Rights of Indigenous People, and the ratification of ILO Convention No. 169, which had been the subject of a recommendation in the Committee's previous concluding observations. However, many problems remained and the Committee looked forward to Guatemala's next report with details on how the three progressive measures were working in practice.

55. The report had frankly presented both positive and negative elements, recognizing the reality of racial discrimination in Guatemalan society, but it had been incomplete in some respects. There was therefore a need for further information on the practical application of standards, policies and provisions, particularly as they affected indigenous people. He believed it was worth repeating the appeal made by the two previous speakers that the Guatemalan Government should act on the recommendations made in paragraphs 313 and 315 of the Committee's report on its forty-eighth session (A/50/18).

56. He also wished to stress the vital importance of land ownership, and asked how the Government intended to manage the distribution of land and what special measures were planned to redress the historical problem, particularly with regard to indigenous communities. What practical results had the Government foreseen in its efforts to increase the participation of indigenous people in all aspects of national life? Another area of concern for the Committee related to guarantees that indigenous people would have effective recourse to the legal system, as provided for in article 6 of the Convention. The fact, as stated in paragraph 32 of the report, that there were no complaints before the courts did not mean there were no problems: the issue of language had been cited in paragraph 34 as one of the barriers which restricted the indigenous population's access to the country's legal system. Consequently, the Committee required additional information on the attention paid to the specific problems of indigenous people and their opportunities for submitting individual complaints on human rights abuses to the courts and the authorities. Lastly, he raised the issue of impunity, stressing that, as the Guatemalan Government faced the future, it could not afford to ignore the unpunished acts of the past.

57. He welcomed the very positive developments in Guatemala and expressed the hope that the Country Rapporteur would be able to accept the invitation to visit Guatemala.

The meeting rose at 6 p.m.

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Fiftieth session

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SUMMARY RECORD OF THE PUBLIC PART OF THE 1191st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 6 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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Burundi

* The summary record of the closed part of the meeting appears as document CERD/C/SR.1191/Add.1.

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GE.97-15786 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Seventh periodic report of Guatemala (continued) (CERD/C/292/Add.1; HRI/CORE/1/Add.47)

1. At the invitation of the Chairman, the delegation of Guatemala resumed their places at the Committee table.

2. Mr. ABOUL-NASR commended the Government on the quality of its report and its dialogue with the Committee. Like Mr. Ahmadu, he nevertheless had one request to make, namely that when the next report was considered, the Guatemalan delegation should include one or more representatives of the indigenous population.

3. Mrs. ALTOLAGUIRRE (Guatemala) thanked the experts for their comments. She could not answer all their questions, but would make sure that the information requested was provided in the next report of Guatemala.

4. The representatives of the ethnic communities who had been contacted, admittedly at a late stage, had unfortunately not been able to accompany her, but she assured the Committee that the shortcoming would be remedied on the occasion of the next visit of the Guatemalan delegation. She then read out the provisions of a bill incorporating the offence of racial discrimination into the Penal Code and making it punishable by imprisonment.

5. With regard to the doubts expressed by members of the Committee concerning the statement that there had been no complaint or conviction relating to acts of discrimination, she pointed out that, in accordance with the rules of due process and the principle of the presumption of innocence, no one could be tried or convicted for an offence that was not provided for by law and approved in appropriate form by the Congress. It was therefore logical that the courts should not have heard any case. Moreover, no complaint had been lodged with the Inter-American Commission on Human Rights - Guatemala had signed the American Convention on Human Rights and recognized the competence of the Inter-American Court of Human Rights. Concerning the access of the Mayan population to the courts, efforts had been made over the past 10 years to provide interpreters for them in the various parts of the country. Several training programmes for court interpreters were being implemented with the support of friendly countries and the assistance of the United Nations Mission for the Verification of Human Rights in Guatemala (MINUGUA) and the United Nations Development Programme (UNDP). MINUGUA was also helping to establish legal services in the more remote areas, to introduce the indigenous languages into the judicial system in the western part of the country and to develop a professional police force. Guatemala was also deriving benefit from the services of experts sent by friendly countries and from the cooperation of the Inter-American Institute of Human Rights. In the regions where indigenous languages were spoken, priority was given to the appointment of prosecutors and judges belonging to the communities concerned.

6. The volunteer civil defence committees had been disbanded with a view to the demilitarization of civil society and MINUGUA II was entrusted, following the peace agreement, with the task of supervising that process. Furthermore, the commission of inquiry due to report on the massacres and clandestine graves had now been set up. It should be pointed out that the Agreement on Identity and Rights of Indigenous People (CERD/C/292/Add.1, para. 86) aimed to facilitate the access of members of the indigenous communities, on completely equal terms, to all spheres of government (education, culture, politics and the economy) and to institute mechanisms for the resolution of problems. Perhaps the most important development, however, was that the way was open for dialogue between the Mayan population and the other ethnic groups, not only on matters of common interest, but above all to resolve institutional problems with the agreement of the parties concerned.

7. On the issue of impunity, she explained that the problem was one of institutional underdevelopment, aggravated by an armed conflict that had led the civilian authorities to withdraw from the combat zones, which had thus been left to the military. The Government was endeavouring to restore order and civilian administration as quickly as possible in those areas. Moreover, the armed conflict had served as an excuse for the most serious human rights violations that had ever been witnessed in Guatemala, and that were also caused by irregular armed groups.

8. Regarding the incident in the Xamán community where 11 people, including an eight-year-old child, had been killed and 21 wounded, she indicated that the eight soldiers found guilty had been in prison since 7 November 1996.

9. Mr. URRUELA PRADO (Guatemala) added that the case had had considerable repercussions since the President of the Republic had acknowledged the responsibility of the State and had dismissed the Minister of Defence. That case marked the end of the policy of impunity for which the armed conflict had served as a justification.

10. Mrs. ALTOLAGUIRRE (Guatemala) informed the members of the Committee that the amparo procedure, although designed as a safeguard, unfortunately had the effect of delaying the sentencing of the guilty parties. It was intended to amend the law in order to restrict the terms of application of that type of remedy. In the case of Miguel Us Mejia and Lucía Tiu Tum, the public prosecutor had not had sufficient evidence to bring proceedings against those allegedly responsible and had been obliged to file the case on 12 July 1996. In any event, it was not a case of racial discrimination. As to the Samuel Merida case, the Government was waiting for more information about the inquiries conducted by the prosecutor's office, but it would appear that the person concerned had been the victim of attempted extortion by the Unión Revolucionaria Nacional Guatemalteca (URNG). That case highlighted the problem of abductions in Guatemala, a phenomenon which affected all segments of the population. On the question of the burglary at the headquarters of the Committee of Peasant Unity (CUC) in Quiché on 21 November 1996, no complaint had been lodged with the prosecutor's office or the police, perhaps because the victims thought that the justice and police services did not have the resources to investigate cases of theft. Furthermore, no important document of the Committee appeared to have been stolen.

11. With regard to street children and children who were neglected or homeless, a standing committee for children and youth, composed of representatives of the procurator's office, the national police and the Casa Allianza association, had been established under the Presidential Commission for Coordinating Executive Policy in the field of Human Rights (COPREDEH). Complaints of violence against street children were treated more effectively than in the past, and a number of police officers had been prosecuted and convicted.

12. Concerning threats against the Human Rights Procurator, she could inform Mr. Yutzis that the person in question had not brought a complaint but an inquiry had been conducted by the relevant services of the Procurator's Office. The question of threats was not mentioned in the Human Rights Procurator's annual report; anonymous threats were unfortunately quite common in Guatemala, but they were rarely carried out. The National Committee for the Defence of Private Property was a group that resorted to sending anonymous letters as a means of intimidating anyone it saw as a hindrance to its interests. However, the authorities were aware of the need to improve the investigative methods used to combat that regrettable practice.

13. As to the complaint concerning mass sterilization, she pointed out that the alleged incidents had not been reported to the judicial or police authorities. It would be surprising, however, if acts of such gravity had escaped the attention of the many non-governmental organizations that were keeping a close watch on the human rights situation in Guatemala, as well as of the press, which enjoyed very considerable freedom.

14. Concerning the participation of the joint bodies comprised of representatives of the Government and of the indigenous communities in making proposals for reform of the State, the peace agreement called for indigenous community representatives chosen by the Mayan communities to participate in all legal or other reforms concerning the modernization of the State. Thus, the Peace secretariat and the coordinating body representing more than 100 Mayan organizations had held their first working meeting on 25 February 1997. The Government representatives on that commission would be designated officially on 15 April 1997.

15. Mr. URRUELA PRADO (Guatemala), replying to a question from Mr. Yutzis on the restitution of land in Guatemala, said that the issue was very complex and resulted in part from the return of persons who had fled the armed conflict and whose lands had since been occupied by other people. The Government was endeavouring to resolve the matter by a variety of means, including restitution or resettlement on land purchased by the State. Under the special provisions of the peace agreement, restitution was to be made to the extent possible, when there was a valid title to property. Otherwise, the State would buy farmland on which the applicants could settle. As to refugees in Mexico, the agreement signed between the Office of the United Nations High Commissioner for Refugees and the Governments of Mexico and Nicaragua provided that 15,000 Guatemalan refugees would remain in Mexico and be given work permits, their children born in Mexico becoming Mexican citizens.

16. On the question of the redistribution of land, he thought that any form of confiscation followed by full redistribution would be arithmetically simplistic and counter-productive. In view of the high population density, plots divided up in that manner would necessarily be small and unviable. It was therefore more worthwhile to modernize the economy and develop industry in areas with a large population, emphasizing not the right of each individual to land, but the right of all to a better life. Furthermore, the practice of growing a single crop for export should be reconsidered and preference given to a more diversified type of agriculture.

17. Concerning the implementation of article 14, on the submission to the Committee of communications from private individuals, he recalled that his country had made a commitment not only to the Committee but also under the peace agreement to respect the rights of indigenous people. In accordance with that commitment, the process of ratification of the Convention was to be approved shortly by the Congress of the Republic.

18. In his view, the racial element was not, as one speaker contended, the main cause of the armed conflict in Guatemala, but a peripheral factor, since indigenous people formed the great majority of the country's population and were represented both in the armed forces and among the guerrillas. Moreover, the distribution of wealth did not trace a strictly racial dividing line.

19. Mrs. ALTOLAGUIRRE (Guatemala) explained, with regard to the application of the death penalty, that on acceding to the American Convention on Human Rights, Guatemala had not committed itself to abolishing the death penalty, but had undertaken not to extend it to other offences and to promote its abolition. However, the conditions had not been favourable to such a measure on account of the growing insecurity due to organized crime, a regrettable development which meant that public opinion was largely in favour of the retention of capital punishment. Guatemala nevertheless intended to respect the provisions of the Convention and would not fail to abolish the death penalty as soon as improved conditions of security permitted it to do so. The judicial authorities did not apply that penalty systematically and the judges and higher courts were endeavouring to observe the provisions of the international conventions and the American Convention.

20. It should also be explained that there was a phenomenon of "indigenization of poverty" in Guatemala that was due, on the one hand, to insufficient access of indigenous people to modernization and, on the other, to their attachment to their own cultural traditions and institutions. The integration of those people into national decision-making bodies therefore had to take account of that reality. Mayan community leaders were beginning, gradually but cautiously, to take up decision-making posts at the political and executive level.

21. Mr. WOLFRUM said that the developments in Guatemala seemed encouraging. However, he would like to know whether the Truth Commission charged with the clarification of human rights violations (Comisión para el esclarecimiento histórico de las violaciones a los derechos humanos) would ultimately have access to the military documents and files it needed to identify those who had ordered villages suspected of sympathizing with the guerillas to be burnt or attacked.

22. He found Mr. Urruela Prado's comments on the land issue disturbing and unconvincing. They suggested that the Guatemalan Government was not intending to apply a programme for the restitution of the land, territory and resources which had traditionally belonged to or been used by the indigenous people. The programme of economic diversification seemed unlikely to resolve that question, moreover, since indigenous people did not feel concerned by the modernization of the economy. They were, on the other hand, fundamentally attached to the land, which was an essential part of their identity.

23. Unlike Mr. Urruela Prado, he thought that the root cause of the civil war was racial discrimination. Despite its numerical size, the indigenous population played an insignificant role in economic life. It was undergoing a process of marginalization that was expressed clearly in the term "indigenization of poverty" employed by Mrs. Altolaguirre. An equitable distribution of land, access of indigenous people to education and their participation in public life, including the Parliament, were essential for bringing peace to Guatemala. Furthermore, the preservation of indigenous people's culture should not be used as a pretext for their continued marginalization.

24. Mr. CHIGOVERA, remarking that in colonial societies indigenous people were systematically dispossessed of their land by the new settlers, asked whether the process of rationalization advocated by the Government instead of an "arithmetic" redistribution of land would take account of indigenous people's right to land. Would it also take into consideration the fact that indigenous people had a special relationship with the land - their sole means and source of existence - that was unknown to the population of European origin?

25. Mr. URRUELA PRADO (Guatemala) explained that at the time of the conquest of Guatemala by the Europeans, indigenous people had been occupying only 30 per cent of the territory. The Spanish system had kept the indigenous system consisting of two forms of land ownership, one community-based and the other individual. That dual system had disappeared with the shift to coffee growing and the recognition of the right of indigenous women to own real property, innovations that had led to the break-up of the communal lands. It would be very difficult today, in his view, to reconstitute the old communal properties. On the other hand, it was possible and desirable for a new balance in the distribution of land to be established in a creative way and for various forms of production to coexist.

26. The unequal distribution of land did not reflect any racial divide and it should be pointed out that the armed conflict had started in areas for the most part inhabited by small white landowners and mestizos discontent with such injustice. It would seem that indigenous people had, for the same reasons, then followed those groups.

27. Mrs. ALTOLAGUIRRE (Guatemala) said that Government policy on the question of land could be illustrated by a number of provisions of the agreements concluded between URNG and the State of Guatemala, which in particular recognized that legislative and administrative measures were needed to allow for the protection, claiming and restitution of the land rights of indigenous people, as well as compensation for them. The difficulties

involved mainly related to the authentication of property rights and access to the procedures for upholding those rights. Although indigenous people were the principal parties concerned, other groups - for socio-economic reasons, or for reasons connected with agriculture or land tenure - were also affected.

28. The Constitution furthermore obliged the State to protect, inter alia, the land of cooperatives or indigenous communities and other land held collectively, and recognized the right of communities, including indigenous communities, to maintain the system of administration of land in their possession and belonging to them historically. The State was also required to provide land for those indigenous communities needing it for their development.

29. The Government had adopted measures and programmes to prevent indigenous people from continuing to be dispossessed of their land, in particular by suspending the rights of ownership of land subject to claims and by making provision for compensation. That marked not only a change of attitude but a policy change. The State had furthermore decided to help resolve land disputes and make legal assistance available for that purpose.

30. The Commission appointed to shed light on human rights violations could consult without any restriction all existing archives and the records of all inquiries made into human rights violations and acts of violence committed during the armed conflict, including the army archives. Although she could not guarantee that no files had disappeared, she assured the members of the Committee that the Government was doing everything in its power to enable the Commission to report without hindrance on the dramatic events that the country had experienced over a period of 36 years.

31. Mr. ABOUL-NASR said that the problem of indigenous peoples' lands was not unique to Guatemala, since it arose throughout America, and also in Australia and New Zealand, as well as in Palestine. The causes of the problem were rooted in history but its consequences were still being felt today. One should thus not speak solely of the past. Moreover, collective property rights needed to be respected just as much as rights to private property. The Guatemalan delegation had spoken of the access of indigenous people to the land, but that was not enough: they had to be able to exercise their rights to ownership of the land. That, of course, posed practical difficulties whose solution required imagination. What provision had the Government made, for example, regarding compensation? The question of land ownership in general was perhaps an issue that should be addressed within the framework of programmes relating to the Third Decade.

32. Mr. van BOVEN said he was very pleased to note that the Government of Guatemala had ratified International Labour Organization Convention No. 169, which included specific provisions concerning land and, in particular, compensation for indigenous people.

33. Mr. YUTZIS, summing up the discussion between the Committee and the Guatemalan delegation, emphasized the quality of the dialogue that had taken place and noted that the considerable task already accomplished by Guatemala augured well for the country's future, in which the international community placed great hope, even if some measures were still needed to foster national

integration, find out the truth, improve the administration of justice and strengthen the fabric of society. It was worth pointing out that about 100 persons of indigenous origin had recently been elected mayors and that the Parliament now had six indigenous members, out of a total of 80. In conclusion, he wished to thank the Guatemalan delegation for the information it had provided, and also for its frankness, which had made possible a constructive debate.

34. The CHAIRMAN expressed his thanks to the Guatemalan delegation and announced that the Committee had completed its consideration of the report of Guatemala.

The public part of the meeting was suspended at 11.55 a.m. and resumed at 12.45 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY-WARNING AND URGENT PROCEDURES (agenda item 4)

Burundi

35. Mr. ABOUL-NASR suggested that the Committee should consider all the issues relating to agenda item 4 and then draft a statement in which it would express its concern about the cases of racial discrimination and ethnic problems brought to its attention, urge the international community, including the United Nations and the specialized agencies, to intensify their efforts to find solutions to those problems, and indicate that it would examine the cases in question at its next session. The statement could be communicated to the press and included in the Committee's report.

36. The CHAIRMAN suggested adding in the statement that the Committee was ready to provide its support to activities aimed at the consolidation of peace, and at reconciliation and social reconstruction.

37. Mr. DIACONU said that, in his view, it would be wiser to take up one specific case rather than attempt in vain to cover too large a number of grave situations. The Committee might confine itself at the current session to considering the situation in Burundi.

38. Mr. ABOUL-NASR said that he agreed with Mr. Diaconu on the last point, although the Committee had little information available to it for an in-depth analysis of the case of Burundi.

39. Mr. van BOVEN said that he was not entirely satisfied with the Committee's early-warning and urgent procedures. They would have to be improved, but for that purpose the Committee needed a larger secretariat. The Committee must also not lose sight of the fact that it drew its strength from the dialogue with States parties. That point had to be stressed.

40. Mr. de GOUTTES agreed with Mr. van Boven: it was essential for the Committee to pursue the dialogue with countries in emergencies, and not be dependent on their periodic reporting.

41. Mr. WOLFRUM said he also felt that the procedures in question should be reviewed. The Committee relied heavily on the information it received about grave situations arising in the world. Regarding the Committee's statement, it should be made clear what cases were being referred to by the Committee.

42. The CHAIRMAN proposed that the officers of the Committee should examine the various suggestions after the meeting.

43. It was so decided.

The meeting rose at 1 p.m.